

Planning Committee Report 23/1532/OUT

1.0 Application information

Number:	23/1532/OUT
Applicant Name:	The Sandy Park Farm Partnership
Proposal:	Outline Planning Application (all matters reserved bar access) for up to 158 residential dwellings (Use Class C3) and up to 17,567 sq m of commercial floorspace (Use Classes E, F2, B2 and B8) with associated infrastructure.
Site Address:	Sandy Park Farm Old Rydon Lane Topsham
Registration Date:	18 December 2023
Link to Application:	https://publicaccess.exeter.gov.uk/online-applications/applicationDetails.do?activeTab=externalDocuments&keyVal=S5VE0VHBKZ200
Case Officer:	Mr Christopher Cummings
Ward Member(s):	Cllr Cookson, Cllr Rolstone, Cllr Williams

REASON APPLICATION IS GOING TO COMMITTEE

The Head of City Development considers the application to be a significant application that should be determined by the Planning Committee in accordance with the Exeter City Council Constitution.

2.0 Summary of recommendation

REFUSE permission subject to reasons as set out in the report

3.0 Reason for the recommendation:

Whilst the development of this greenfield site is accepted, with it allocated in both the Core Strategy and the emerging Exeter Plan, the proposed use mix is not acceptable, with the site shown as employment land in the Newcourt Masterplan and emerging Exeter Plan Policy EJ6. The masterplan has limited weight, however when read alongside Core Strategy Policies CP2 and CP19 there is a clear conflict with no employment land having currently been provided in the Newcourt area. Whilst the tilted balance is in effect, this is a significant and demonstrable harm that would not outweigh the benefits of additional residential units on this site.

There are significant issues with other aspects of the scheme, including loss of trees at the southern access point, air quality considerations, drainage design and the need to update ecological information. These are matters that may be resolved through revised details, however given the unacceptable nature of the proposed mixed residential/employment use of this site, it is not considered appropriate to request revised details as they would not overcome that refusal reason.

4.0 Table of key planning issues

Issue	Conclusion
EIA Screening	The site has been assessed under the Environmental Impact Regulations which concluded that as the site is within the Newcourt urban extension any impacts can be addressed through the planning process, Habitat Regulations Assessment and the use of planning conditions and obligations. An Environmental Statement is therefore not required for this proposal.
Principle of Development	<p>The site is allocated as part of the Newcourt urban extension under Core Strategy Policy CP19 for around 3,500 dwellings and 16ha employment. The Core Strategy does not break down the Newcourt urban extension into land parcels, leaving this to the Newcourt Masterplan. The Masterplan is not adopted and has limited weight. The Masterplan proposes this site for 8.3ha of employment, with the proposal being a mix of residential and employment on a 7.98ha in size, with only 2.29ha being employment.</p> <p>No employment has been delivered within the Newcourt extension and there are limited land parcels left to deliver the 16ha required by Policy CP19. The emerging Exeter Plan allocates this site for 7ha of employment land, demonstrating a continued requirement for employment in this area.</p>

Issue	Conclusion
	<p>It is acknowledged that deviations from the Masterplan have occurred, however these have accorded with the general guidance within and the requirements of Core Strategy Policies CP19 and CP2. This proposal fails to accord with the guidance as there is limited land left in Newcourt to accommodate the 16ha of employment required.</p> <p>Mitigation was proposed through delivery of employment on land to the south of Old Rydon Lane. This is outside the red-line of this application and a masterplan would be required to ensure that a suitable level could be accommodated without significant impacts. No such exercise has been undertaken.</p> <p>There will be a loss of agricultural land, employment and residential through development of this site. However, the allocation under Core Strategy Policy CP19 identifies an overall net gain of residential and employment in the Newcourt urban extension that offsets the harm generated by this loss.</p> <p>The Council cannot currently demonstrate a 5 year housing land supply and the tilted balance in favour of development is in effect. However, in accordance with NPPF paragraph 11(d)(ii) it is considered that there is significant and demonstrable harm generated through this proposal that outweighs the benefits. The failure to deliver the employment land required by Core Strategy Policies CP2 and CP19 will generate significant impacts to the Newcourt allocation area (as</p>

Issue	Conclusion
	<p>required by NPPF paragraph 77), the city and the wider Travel to Work area.</p> <p>The proposal therefore generates unacceptable conflict with Core Strategy Policies CP2 and CP19 and is unacceptable in principle.</p>
Residential Density	<p>The Newcourt Masterplan proposes a density of 50dph for residential development and this proposal will provide a net density level of 55.05dph (not including any green space areas).</p> <p>This is considered acceptable in accordance with Masterplan requirements.</p>
Site Layout and Parameter Plan	<p>The overall layout would be dealt with at reserved matters stage, however a parameter plan was submitted with this application.</p> <p>Given the in-principle objection to the level of employment proposed it is considered that a significant update to the parameter plan would be required.</p> <p>It is not considered a suitable reason for refusal on its own, but any revised scheme would need to update the parameter plan accordingly.</p>
Access	<p>The principle of primary northern access onto Sandy Park Way and the A379 and an access onto Old Rydon Lane is in accordance with the Newcourt Masterplan and supported. The level of trips generated from the site is not considered to create any unacceptable highway impacts on both local roads and the junction with the M5, with recent improvements to the surrounding area as part of the Newcourt urban extension. The northern access itself is considered acceptable in design, with Sandy Park</p>

Issue	Conclusion
	<p>Way designed to accommodate the additional vehicle movements from this site and a site to the south of Old Rydon Lane. However, the southern access raises significant concerns. The southern access will join Old Rydon Lane which sees high levels of non-motorised use on event and match days at Sandy Park Rugby Club. It has not been demonstrated how safe vehicle and pedestrian/cycle movements will occur on these days, creating an unacceptable highway safety impact contrary to LP saved Policy H2, CS Policies CP4 and CP16, and NPPF paragraph 116. In addition, the southern access will see the loss of two significant trees on the southern boundary. It has not been demonstrated that this is unavoidable and that alternative access point positions are not suitable, contrary to CS Policies CP16 and CP17, and LP saved policy LS4. It is acknowledged that both of these aspects may be resolvable with additional information, revised drawings or mitigation, however given the in-principle objection it was not appropriate to require this to be submitted as it would not resolve the land use issue.</p>
Other Highway Matters	<p>Reserved matters would be expected to demonstrate suitable pedestrian and cycle access routes through the site. A Transport Hub is proposed and is recommended to be secured by condition to ensure space is available for hire bikes and vehicles should members decide to approve the application.</p> <p>A Construction Management Plan condition is recommended to reduce the impacts during the construction</p>

Issue	Conclusion
	phase of development if the application is approved.
Amenity Impacts	<p>There will be a level of vehicle impacts, however this will primarily be through the existing access point to the north. There are adjoining residential properties to the south, however it is considered that the layout at reserved matters stage will be enough to ensure suitable mitigation.</p> <p>There are not considered to be any significant amenity impacts generated by this proposal.</p>
Air Quality	<p>An Air Quality Impact Assessment was submitted and the Council's Environmental Health team raised objections, noting that the area with the highest current concentrations (East Wonford Hill) was not included.</p> <p>Whilst this could be resolved with additional information, it was not considered appropriate to request it as it would not solve the in-principle refusal reason for this proposal.</p> <p>The scheme is therefore contrary to Local Plan saved Policy EN3 and Core Strategy Policy CP11.</p>
Contamination	<p>The submitted contamination report recommends further intrusive investigations, an approach supported by the Council's Environmental Health Team.</p> <p>Any approval should include a condition requiring this to be undertaken, with remediation as necessary.</p>
Noise	A Noise Impact Assessment was submitted with this proposal. The Council's Environmental Health team

Issue	Conclusion
	<p>raised queries regarding use of heat pumps and precision for monitoring background noise.</p> <p>Any approval should therefore include a condition relating to background noise levels, and requiring an updated Noise Impact Assessment.</p>
Ecology	<p>The submitted surveys are from 2021 and are now out-of-date, with updated surveys and reports required, with the Council's ecologist noting missing information in the submitted ecology report. It was also noted that roosting bat mitigation is needed, as well as securing of a 10m dark corridor for bat activity. Further detail was also needed in relation to translocation sites for reptiles.</p> <p>The application was submitted prior to the mandatory 10% biodiversity net gain, although it has been demonstrated that an overall gain can be achieved on site.</p> <p>Due to the out-of-date and missing information the proposal is contrary to LP saved Policy LS4 and CS Policy CP16. Whilst this issue may be resolved through submission of further information it would not solve the in-principle refusal reason relating to employment use. It was therefore not considered appropriate to require submission of this at additional costs to the applicant.</p>
Drainage	<p>The submitted drainage proposals were not considered acceptable by the Lead Local Flood Authority with incorrect methodology used and insufficient information on infiltration and drainage strategy.</p>

Issue	Conclusion
	<p>The proposal is therefore contrary to Local Plan saved Policies EN3 and EN4 and Core Strategy Policy CP12.</p> <p>Whilst this could be resolved with additional information, it was not considered appropriate to request it as it would not solve the in-principle refusal reason for this proposal.</p>
Heritage	<p>There are no listed buildings within or immediately adjacent to the site and it is not within a Conservation Area.</p> <p>The submitted Heritage Statement noted the risk of archaeological remains and a condition for an Archaeological Watching Brief is recommended on any approval.</p>
Energy	<p>Any non-domestic buildings would be expected to meet BREEAM 'excellent' standards and this would be required by condition. Energy efficiency on residential buildings would be dealt with by recently updated Building Regulation requirements.</p> <p>A condition would be required for connection to a district heating system unless it is demonstrated that it is not possible or viable at the time of development.</p> <p>A condition for a Waste Audit Statement would be required should the application be approved.</p>
Green Space and Play	<p>No objection to proposal subject to securing a LAP and LEAP as well as contribution towards improving MUGA at Omaha Drive.</p>
Affordable Housing	<p>The proposal meets policy requirements of 35% Affordable Housing and this would need to be</p>

Issue	Conclusion
	secured through a S106 Agreement should the application be approved.
Planning Obligations	<p>The following planning obligations are necessary to make the scheme acceptable:</p> <ul style="list-style-type: none"> - 35% Affordable Housing - £1,676.10 per Affordable dwelling to mitigate for recreational impacts on Exe Estuary SPA and East Devon Pebblebed Heaths SCA and SPA. - A Local Highway Authority obligation of £125,000 to encourage sustainable transport through improvements to the Local Cycling and Walking Infrastructure Plan routes E8, E9, E10, E11 and E13. - £10,000 for Traffic Regulation Orders needed for changes to the public highway. - £686 per dwelling for GP surgery expansions at Hill Barton Surgery, Glasshouse Lane Medical Centre or Topsham Surgery in response to the population growth. - Securing of LAP and LEAP in accordance with Fields in Trust guidance and financial contribution towards improvements to off-site MUGA at Omaha Drive.
Summary	<p>The Council cannot currently demonstrate a 5 year housing supply. However the failure to deliver employment in the Newcourt allocation, when considered alongside the limited land parcels left, would result in significant and demonstrable harm contrary to NPPF paragraph 77(b), Core Strategy Policies CP2 and CP19 and the Newcourt Masterplan.</p>

Issue	Conclusion
	<p>Alongside this, the residential land fails to demonstrate best use of land, there will be unacceptable harm to established trees for the southern access point, insufficient information on air quality impacts is provided and insufficient information on drainage.</p> <p>Whilst these additional reasons may be resolved through submission of revised documents, they would not resolve the in-principle conflict of the application through the failure to deliver suitable employment land. It was therefore not considered appropriate to require the applicant to produce additional information.</p>

5.0 Description of site

The application site is 7.89 hectare in size, located in the Newcourt area of the city. It is currently predominantly agricultural use, but includes 9 dwellings on the eastern side, primarily in converted barn buildings, alongside a small commercial unit, barns and sheds and hardstandings.

It is bounded by the A379 to the north, the Exeter to Exmouth railway line to the west, dwellings and Old Rydon Lane to the south and Sandy Park Stadium and David Lloyd Leisure Centre to the east.

In the wider area to the north of the A379 is the Apple Lane residential area, to the west is the Newcourt residential area and Ikea store, to the south is agricultural land and to the south east is the Marriott hotel and to the east is the M5 motorway and Clyst Road.

The site slopes from the northern boundary downwards to the southern boundary. The A379 (to the north) is set down from the site, but an existing wide road connection leads up to a roundabout on Sandy Park Way adjacent to the site.

The site is located within the Newcourt Strategic Allocation in the Core Strategy (Policy CP19). Old Rydon Lane to the south is designated a Green Infrastructure Route. The site is in Flood Zone 1. The site is allocated for employment development in the Newcourt Masterplan (November 2010).

6.0 Description of development

Outline Planning Application (all matters reserved bar access) for up to 158 residential dwellings (Use Class C3) and up to 17,567 sq m of commercial floorspace (Use Classes E, F2, B2 and B8) with associated infrastructure.

Site access is proposed to the north, connecting onto Sandy Park Way at an existing roundabout. This would then link north onto the A379 allowing movement east and west.

A spine road is proposed through the site linking to Old Rydon Lane. This will allow secondary access and create a link road to fields to the south of Old Rydon Lane, proposed as residential in the Newcourt Masterplan.

7.0 Supporting information provided by applicant

- Application Form
- CIL form
- Air Quality Assessment (422.064772.00001 Rev 1.0 dated 30 October 2023)
- Tree Survey (05293 Tree Survey Rev A)
- Arboricultural Impact Assessment (05293 AIA – 17 July 2023)
- Heritage Statement (ACD2045/1/0 – December 2019)
- Ecological Impact Assessment (231025_P915_EclA_Final (EAD Ecology) - October 2023)
- Travel Plan (237453 Rev 04 – December 2023)
- Transport Assessment (237453 Rev 06 – December 2023)
- Planning Statement (December 2023)
- Statement of Consultation (December 2023)
- Noise Impact Assessment (422.064770.00001 Rev 1 – 20 October 2023)
- Design and Access Statement (18095 – December 2023)
- Active Travel England Assessment (11 September 2023)
- Biodiversity Metric (25 October 2023)
- Preliminary Geotechnical Investigation and Contamination Assessment Report (TN/CR/SR/18464/PGICAR Issue 4 – 19 October 2023)
- Flood Risk Assessment and Drainage Strategy (RW102320102002 Rev P02 – 12 July 2023)
- Sustainability/Net Zero/Carbon Reduction Statement (MLPD 17001 – January 2024)
- Waste Audit Statement (MLPD 17001 – January 2024)

8.0 Relevant planning history

Reference	Proposal	Decision	Decision Date
06/1571/CMA	Extraction and processing of sand	ROB	24.08.2006
05/0490/CMA	Works for the extraction and processing of sand	ROB	01.06.2005

04/0117/CMA	Extraction of minerals (Determination of Conditions and Review of site/mining)	RNO	10.03.2004
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9.0 List of constraints

- Noise from motorway and railway line
- Surface water flooding to north, where the land slopes towards the A379
- Potential contamination in surrounding area
- Proximity to Sandy Park Stadium – noise, access considerations

10.0 Consultations

Below is a summary of the consultee responses. All consultee responses can be viewed in full on the Council's website.

National Highways: Originally raised objection to proposal due to age of the transport assessment work to support the Newcourt Masterplan and subsequent changes in land use and traffic demand assumptions. An updated assessment was required to demonstrate the standalone impacts on the safe operation of M5 Junction 30 is required. Following submission of additional information this objection was withdrawn. Additional information demonstrated that the M5 J30 remains capable of accommodating the development and no adverse impact is expected.

Local Highway Authority (Devon County Council): Raised no objection subject to mitigation. The submitted trip generation will not create unacceptable highway impacts and the northern access point will connect to a highway designed for this additional traffic. The southern access is acceptable in design, however mitigation is needed in relation to non-motorised vehicle use of Old Rydon Lane during event and match days at Sandy Park Rugby Club. A Traffic Regulation Order is required of £10,000 as well as a contribution for improvements to the Local Cycling and Walking Infrastructure Plan of £125,000.

Lead Local Flood Authority (Devon County Council): **Object** to proposal. The proposed surface water management does not specify which techniques are being proposed and a Drainage Plan Drawing is required. Infiltration does not seem to be wholly viable and further detail is required to demonstrate where surface water could be discharged. A requisitioned surface water sewer is mentioned, however further details of this are required. The submitted FSR is from the 1970's and out of date. An updated FEH rainfall is required. A new climate change uplift value is required when sizing the proposed surface water drainage management system alongside information on urban creep.

Natural England: No objection subject to an Appropriate Assessment and securing mitigation for recreational pressure impacts on protected European Sites.

Active Travel England: Advised to use standing advice.

Exeter International Airport: No safeguarding objections to proposal.

RSPB: Raised concerns that only one bird box per two dwellings is proposed, contrary to British Standard recommended levels of at least one per dwelling.

South West Water: Provided a plan showing a combined sewer running diagonally across the south-east corner of the site.

Devon and Somerset Fire and Rescue Service: No objection. Noted that proposal satisfies B5 access under Building Regulations.

Police Designing Out Crime Officer: Provided guidance on the indicative layout in relation to overlooking, active frontages and defensible space.

NHS Integrated Care Board: No objection subject to mitigation. This was originally at a rate of £636 per dwelling. Following reconsultation this was increased to current levels and surgeries changed due to catchment area alterations. A mitigation level of £686 per dwelling for expansions at Hill Barton Surgery, Glasshouse Lane Medical Centre and Topsham Surgery is requested.

Waste Planning Authority (Devon County Council): No objection subject to a condition for a Waste Audit Statement.

Ecologist (Dorset Natural Environment Team): Objected to proposal due to out-of-date and insufficient information. The submitted surveys are out-of-date and the ecology report is missing some information. Further detail is required on reptile mitigation, impacts on roosting bats and dark corridor details.

Environmental Health (ECC): Objected to proposal. Required additional information. In relation to noise levels and air quality impacts. The submitted contamination report recommended further site investigation and a condition is recommended in relation to this. A condition for Construction Environmental Management Plan was also recommended.

Tree Officer (ECC): Objected to proposal to loss of trees T3 and T4 (to create southern access) and T16 (within eastern area of site).

Waste & Recycling Team (ECC): No objection. Recommended discussions prior to design of layout to ensure access to bin stores.

Building Control (ECC): Advised no comment to make at this stage.

Exeter Civic Society: No objection to outline permission. Recommended layout changes for the reserved matters proposal including repositioning of blocks, increased cycle provision, increased dwelling density and restriction of car parking spaces and provision of travel hub.

Exeter Cycling Campaign: Raised comments on the scheme. Recommended a bridge across the railway line, noted that steps lead to the station and access could be improved.

11.0 Representations

Five objections were received raising the following issues:

- Increase in traffic on the signalised junction of the A379
- Increase in noise from vehicle braking, acceleration and turning and mitigation would be required.
- Details of the junction with Old Rydon Lane are required.
- Opportunity to improve pedestrian provision on Old Rydon Lane.
- Blocking of skyline by commercial units and loss of light.
- Risk of noise and anti-social behaviour from car parking areas.
- Lack of junction capacity assessments in Transport Assessment and due to time passed the Newcourt Masterplan calculations are not suitable for use.
- Old Rydon Lane is a 'feeder' route for the Local Cycling and Walking Infrastructure Plan and will see high level of active travel use and improvements are required.
- Principle access cannot be delivered as Sandy Park Way is under separate ownership and only access is therefore from Old Rydon Lane, which would not be acceptable.

It should be noted one of the objectors stated they did not object to the application in principle, but they had concerns regarding transport impacts on the local and strategic road network, and safe access for all users along Old Rydon Lane.

12.0 Relevant policies

National Planning Policy and Guidance

National Planning Policy Framework (NPPF) (2025) in particular sections:

2. Achieving sustainable development
4. Decision-making
5. Delivering a sufficient supply of homes
6. Building a strong, competitive economy
7. Ensuring the vitality of town centres
8. Promoting healthy and safe communities

9. Promoting sustainable transport
10. Supporting high quality communications
11. Making effective use of land
12. Achieving well-designed places
14. Meeting the challenge of climate change, flooding and coastal change
15. Conserving and enhancing the natural environment
16. Conserving and enhancing the historic environment

Planning Practice Guidance (PPG):

Air Quality
Appropriate assessment
Climate change
Community Infrastructure Levy
Design: process and tools
Effective use of land
Environmental Impact Assessment
First Homes
Flood risk and coastal change
Healthy and safe communities
Housing and economic needs assessment
Housing needs of different groups
Housing for older and disabled people
Housing: optional technical standards
Housing supply and delivery
Land affected by contamination
Light pollution
Natural environment
Noise
Open space, sports and recreation facilities, public rights of way and local green space
Planning obligations
Travel Plans, Transport Assessment and Statements
Use of planning conditions
Waste
Water supply, wastewater and water quality

National Design Guide (MHCLG, 2021)

National Model Design Code (MHCLG, 2021)

Cycle Infrastructure Design Local Transport Note 1/20 (DfT, July 2020)

Protected species and development: advice for local planning authorities (Natural England and DEFRA, 7 January 2021)

Protected sites and areas: how to review planning applications (DEFRA and Natural England, 5 August 2016)

Biodiversity duty: public authority duty to have regard to conserving biodiversity (Natural England and DEFRA, 13 October 2014)

Development Plan

Core Strategy (Adopted 21 February 2012)

Core Strategy Objectives

- CP1 – Spatial Strategy
- CP2 – Employment
- CP4 – Density
- CP5 – Mixed Housing
- CP7 – Affordable Housing
- CP9 – Transport
- CP11 – Pollution
- CP12 – Flood Risk
- CP13 – Decentralised Energy Network
- CP14 – Renewable and Low Carbon Energy
- CP15 – Sustainable Construction
- CP16 – Green Infrastructure, Landscape and Biodiversity
- CP17 – Design and Local Distinctiveness
- CP18 – Infrastructure
- CP19 – Renewable and Low Carbon Energy

Exeter Local Plan First Review 1995-2011 (Adopted 31 March 2005), Saved policies:

- AP1 – Design and Location of Development
- AP2 – Sequential Approach
- H1 – Search Sequence
- H2 – Location Priorities
- H4 – Loss of Dwellings
- H7 – Housing for Disabled People
- E3 - Retention of Employment Land or Premises
- T1 – Hierarchy of Modes
- T2 – Accessibility Criteria
- T3 – Encouraging Use of Sustainable Modes
- C5 – Archaeology
- LS2 – Ramsar/Special Protection Area
- LS3 – Sites of Special Scientific Interest
- LS4 – Nature Conservation
- LS4 - Local Nature Conservation Designations/RIGS
- EN2 – Contaminated Land
- EN3 – Air and Water Quality
- EN4 – Flood Risk
- DG1 – Objectives of Urban Design
- DG2 – Energy Conservation
- DG3 Commercial Development
- DG4 Residential Layout and Amenity

DG5 – Provision of Open Space and Children’s Play Areas

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

W4 – Waste Prevention

W21 – Making Provision for Waste Management

Other Material Considerations

Exeter Plan: Publication Plan Regulation 19 (December 2024)

S1: Spatial strategy

S2: Liveable Exeter Principles

CC1: Net zero Exeter

CC2: Renewable and low carbon energy

CC3: Local energy

CC5: Future development standards

CC6: Embodied carbon

CC7: Development that is adaptive and resilient to climate change

CC8: Flood risk

CC9: Water quantity and quality

H1: Housing requirement

H2: Housing allocations and windfalls

H4: Affordable housing

H13: Loss of residential accommodation

H14: Accessible homes

H15: Housing density and size mix

H16: Residential amenity and healthy homes

EJ1: Economic growth

EJ2: Retention of employment land

EJ3: New forms of employment provision

EJ4: Access to jobs and skills

EJ6: New transformational employment allocations

STC1: Sustainable movement

STC2: The transport hierarchy

STC3: Supporting active travel

STC4: Supporting public transport

STC5: Supporting more sustainable forms of car use

STC6: Travel Plans

STC7: Digital communications

NE3: Biodiversity
NE4: Green Infrastructure
NE6: Urban greening factor
NE7: Urban tree canopy cover
HH3: Archaeology
C2: Development and cultural provision
D1: Design principles
D2: Designing-out crime
HW1: Health and wellbeing
HW2: Environmental quality, pollution and contaminated land
IF1: Delivery of infrastructure
IF2: Viability
IF3: Community facilities
IF4: Open space, play areas, allotments and sport

Exeter City Council Supplementary Planning Documents and Supplementary Planning Guidance:

Affordable Housing SPD (April 2014)
Sustainable Transport SPD (March 2013)
Planning Obligations SPD (April 2014)
Public Open Space SPD (Sept 2005)
Residential Design Guide SPD (Sept 2010)
Trees and Development SPD (Sept 2009)
Archaeology and Development SPG (November 2004)

Devon County Council Supplementary Planning Documents:

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

Newcourt Masterplan (November 2010)
Liveable Exeter Principles – A city-wide initiative of transformational change (2022)
Exeter Density Study (July 2021)
Net Zero Exeter 2030 Plan (Exeter City Futures, April 2020)
First Homes Planning Policy Statement (June 2021)
Annual Infrastructure Funding Statement 2021/22
Green Infrastructure Study (April 2009)
Green Infrastructure Strategy – Phase II (December 2009)
South-east Devon European Site Mitigation Strategy (June 2014)
East Devon, Exeter, Mid Devon and Teignbridge Local Housing Needs Assessment: Report of Findings for Exeter (September 2022)

Exeter Housing and Economic Land Availability Assessment (HELAA) First Edition (Sept 2022)
Exeter Brownfield Sites Studies (June 2020)
Urban Capacity Study Part 1 (July 2020)
Urban Capacity Study Phase 2 (July 2021)
Exeter Employment Study (August 2022)
Exeter Plan: Schedules of potential suggested modifications to the Plan and Policies Map

13.0 Human rights

Article 6 - Right to a fair trial.

Article 8 - Right to respect for private and family life and home.

The first protocol of Article 1 Protection of property

The consideration of the application in accordance with Council procedures will ensure that views of all those interested are considered. All comments from interested parties have been considered and reported within this report in summary with full text available via the Council's website.

It is noted that there is the risk of overlooking of dwellings to the south, however this will fall under the reserved matter considerations of any future application and will be fully assessed at that stage.

It is acknowledged that there are certain properties where they may be some impact. However, any interference with the right to a private and family life and home arising from the scheme as a result of impact on residential amenity is considered necessary in a democratic society in the interests of the economic well-being of the city and wider area and is proportionate given the overall benefits of the scheme in terms of provision of affordable housing and employment.

Any interference with property rights is in the public interest and in accordance with the Town and Country planning Act 1990 regime for controlling the development of land. This recommendation is based on the consideration of the proposal against adopted Development Plan policies, the application of which does not prejudice the Human Rights of the applicant or any third party.

14.0 Public sector equalities duty

As set out in the Equality Act 2010, all public bodies, in discharging their functions must have "due regard" to the need to:

- a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;

- b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard in particular to the need to:

- a) removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
- b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of other persons who do not share it
- c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

Whilst there is no absolute requirement to fully remove any disadvantage the Duty is to have “regard to” and remove OR minimise disadvantage and in considering the merits of this planning application the planning authority has had due regard to the matters set out in section 149 of the Equality Act 2010.

15.0 Financial issues

The requirements to set out the financial benefits arising from a planning application is set out in s155 of the Housing and Planning Act 2016. This requires that local planning authorities include financial benefits in each report which is:-

- a) made by an officer or agent of the authority for the purposes of a non-delegated determination of an application for planning permission; and
- b) contains a recommendation as to how the authority should determine the application in accordance with section 70(2) of the Town and Country Planning Act 1990.

The information or financial benefits must include a list of local financial considerations or benefits of a development which officers consider are likely to be obtained by the authority if the development is carried out including their value if known and should include whether the officer considers these to be material or not material.

Material considerations

Up to 58 dwellings including 35% Affordable Housing
10% of site to be public open space including play areas.

Contributions to health care at £686 per dwelling for expansions at Hill Barton Surgery, Glasshouse Lane Medical Centre and Topsham Surgery is requested. Jobs created during construction and following completion.

Non material considerations

CIL contributions

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

The rate at which CIL is charged for residential development is £139.64 per sq metre plus new index linking. Confirmation of the final CIL charge will be provided to the applicant in a CIL liability notice issued prior to the commencement of the development. All liability notices will be adjusted in accordance with the national All-in-Tender Price Index of construction costs published by the Building Cost Information Service (BCIS) of the Royal Institute of Chartered Surveyors for the year when planning permission is granted for the development. Full details of current charges are on the Council's website.

The proposal will generate Council Tax and Business rates.

16.0 Planning assessment

The key issues are:

1. EIA Screening
2. Principle of Development
3. Residential Density
4. Site Layout and Parameter Plan
5. Access
6. Other Highway Matters
7. Amenity Impacts
8. Air Quality
9. Contamination
10. Noise
11. Ecology
12. Drainage
13. Heritage
14. Energy
15. Green Space and Play
16. Affordable Housing
17. Planning Obligations
18. Summary and Planning Balance

1. EIA Screening

The site has been assessed under Regulation 5.(5) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended).

This concluded that the site would fall under Schedule 2, 10(b)(ii) Urban Development project of more than 150 dwellings and Schedule 2, 10(c)(iii) Urban Development Proposal with area of development exceeding 5 hectares.

Following consideration under EIA Regulations Schedule 3 it was concluded that as the site falls within the Newcourt urban extension and existing mitigation measures in place through Habitat Regulations Assessment, planning obligations and the use of conditions, the issues can be successfully addressed through the application process. An Environmental Statement was therefore not required for this scheme.

2. Principle of Development

Allocation and Proposed Use

The site is within the Newcourt allocation in the Core Strategy (CS) under Policy CP19 that states a requirement for around 3,500 dwellings and around 16 hectares of employment land, alongside associated infrastructure. This is further stated in CS Policy CP2, seeking 16ha employment land south of the A379 in the Newcourt area.

CS Policy CP2 states that 'The release of employment allocations for other uses will only be acceptable where it can be demonstrated that development for an alternative use represents an opportunity that would create significant economic benefits for the city and the Travel to Work Area.' This supports Local Plan (LP) saved Policy E3 that states 'The loss of employment land or premises will not be permitted where it would harm business or employment opportunities in the area.' This is defined further in paragraph 3.25 of the supporting text to include a requirement that '...sites proposed for employment use are safeguarded'. Whilst this site is not allocated within the LP, the Policy is still applicable to the Newcourt masterplan area.

The CS does not break down the Newcourt allocation into smaller areas, with only the wider allocation identified in Plan 1 (page 100).

The Newcourt Masterplan (November 2010) shows proposed land uses and land parcels for the Newcourt Area. This site is proposed for employment use only, noting that approximately 8.3 hectares of employment land could be provided. It is of note that the proposed site is 7.98 hectares in size, smaller than the allocated calculation.

The Masterplan was produced and consulted upon, but was not formally adopted as an SPD. It was approved by the Council's Executive for development management purposes and for future adoption as an SPD at meetings on 28 September 2010 and

23 November 2010. The Masterplan is a material consideration, with Core Strategy paragraph 12.13 in relation to Policy CP19 stating that 'The development of this area should have general regard to the guidance contained within the Newcourt Masterplanning Study'. The use of the word 'guidance' is important, as paragraph 47 of the Inspector's Report on Examination of Exeter Core Strategy Development Plan Document states that 'the fundamental principles for implementation may give other valid outcomes. I agree that the masterplans can only be indicative of final development.' This change was further confirmed in Amendment 30 of Appendix A of the Inspectors Report which stated to 'Delete 'be in accordance with' and replace with 'The development of this area should have general regard to guidance contained within the Newcourt Masterplanning Study'. Therefore the Masterplan was only intended to be a guidance document and not strictly adhered to.

It is therefore concluded that the Masterplan as a whole should be given limited weight. However, it is of significance that the Masterplan was produced to guide the development of around 3,500 dwellings and 16ha employment as required by CS Policies CP2 and CP19 and the overall delivery is directly impacted by adherence or deviation from the masterplan.

The emerging Exeter Plan (EP) continues the allocation of this site under Policy EJ6 for 7 hectares of transformational employment development and associated infrastructure. The Exeter Plan is at Regulation 19 stage and has been submitted for examination. Only very limited weight can be given to its policies at this time.

The proposal is for 158 dwellings and 2.29ha employment. This is not a direct conflict with CS Policies CP2 and CP19 on their own, however does conflict with emerging EP Policy EJ6.

With regards to CS Policies CP2 and CP19 at initial glance there appears to be no conflict in providing both residential and employment on the site. However, the majority of Newcourt has now been built out and a wider view needs to be considered.

CP19 states that c.3,500 dwellings are to be provided in the Newcourt Area. As of the latest calculations (01 April 2025) 1,536 have currently been built, 587 have planning consent and a further 350 have outline permission granted, subject to a S288 challenge. This creates a total of 2,473 dwellings of the c.3,500.

CS Policies CP2 and CP19 also state that around 16 hectares of employment land should be created of which none has been delivered. It is noted that an Ikea store has been delivered within Newcourt, however this is a retail delivery and not employment. The Ikea store did create significant economic benefits for the city, but did not contribute to the identified need for employment in Newcourt, city and wider area.

Deviations from the Newcourt Masterplan have occurred during the urban extension. In particular, land to the east of Newcourt Way is drawn as residential under area g. of the Masterplan, but was approved as an Ikea store under approvals 13/4245/OUT and 16/1269/RES. Land to the far east of the Masterplan area, bordering the M5, was shown as 'habitat links and green space' and this was approved for a hotel under approvals 17/0665/OUT, 18/0998/RES and 19/0055/VOC. Both sites have been constructed and are in operation.

It is also of relevance that there is an employment requirement in the emerging Exeter Plan. This has seen the application site allocated under Policy EJ6 for 7 hectares of employment. The EP has been submitted for examination with EJ6 seeking 'transformational employment', but the Schedule of Suggested Modifications proposes removing the word 'transformational' to propose solely employment types as identified in the Economic Development Needs Assessment. Whilst it is accepted that the Plan has only recently been submitted for examination and therefore has very limited weight, there will continue to be a clear need for employment to support the city and the wider Travel to Work Area, whether it is 'transformational' employment or other identified employment needs. This importance is furthered by representations submitted to the Exeter Plan, including from East Devon District Council, which questions whether sufficient employment land is proposed in the Exeter Plan.

There is therefore a demand for employment to serve both the city and wider area, identified in both the adopted development plan and the emerging EP that must be met.

The submitted scheme would deliver 2.29ha of employment, however this is only a small part of the 7.89ha site and the overall 16ha stated in the CS. There are only 3 parcels of land left within the Newcourt Masterplan area, with only 1 other of these areas shown in the Masterplan as providing employment (area y, 7.4ha). There have been no applications for the delivery of employment on this additional employment site. This further demonstrates the conflict with CP2 and CP19 employment requirements by failing to deliver a suitable level within the Newcourt urban extension and within the areas identified in the Masterplan for employment use.

The submitted proposal seeks to mitigate the shortfall in employment land through delivery of employment of land on another site under the applicant's control to the south of Old Rydon Lane, as shown in Plan 7 of the submitted Planning Statement. This is land outside of the red-line of this application and the proposed employment would need to mitigate the entirety of the employment shortfall.

Whilst there may be legal mechanisms to secure this land for employment in the southern area, it would need to be fully assessed to ensure it is a suitable location for this scale of employment and that there would be no significant material impacts

generated. It is of note that this southern parcel will require a vehicle access point to cross Old Rydon Lane, contains a parcel of land outside the applicant's control that has extant outline permission for housing (14/2007/OUT) and is bordered by a hotel.

A full masterplan exercise would therefore be required to assess the suitability of any employment mitigation in the southern parcel through pre-application or planning application. The submitted application being assessed does not include the land to the south within the red line and therefore these significant considerations of employment use within it cannot be suitably considered. It was recommended to the applicant that such a masterplan approach be undertaken, however this offer was not taken up. Therefore, the employment mitigation to the south is not suitable in this instance due to the material considerations that must be undertaken in ensuring it is a suitable location in comparison to the allocated site.

In conclusion, there is an overall failure to deliver the Newcourt employment required by CS Policies CP2 and CP19 and emerging EP Policy EJ6, as well as a failure to adhere to the guidance of the Newcourt Masterplan.

Loss of agricultural land, employment and housing

The application site is predominantly greenfield and is in use as farmland, with a small eastern area containing office space and a cluster of housing. This section of the report focuses on these existing uses and their loss, rather than the allocated development discussed in the previous section.

LP saved Policy H4 states that proposals that result in a net loss of residential dwellings would not be supported where it would harm housing opportunities. In this instance the loss is acceptable with the proposal including housing within it creating a significant overall gain. It should be noted that as the site is part of the overall Newcourt allocation the loss of the dwellings for a solely employment use would be mitigated by the overall net gain of the Masterplan area.

The loss of the existing employment space will be mitigated by the creation of new employment within the site in accordance with LP saved Policy E3.

The development will see the loss of agricultural land. LP paragraph 2.10 states that the sequential assessment for major development will only apply to unallocated sites. In this instance the site is allocated in CS Policy CP19 and the sequential assessment is not applicable, having been considered as part of the allocation process.

In conclusion, the loss of the agricultural land, existing employment and housing is considered to be acceptable, with it being offset by the significant increase in

employment and housing both on-site and in the wider Newcourt allocation stated in CS Policy CP19.

Housing Land Supply

The Council cannot currently demonstrate a 5 year housing land supply, with the latest Five Year Housing Land Supply Statement (May 2025) showing a level of 4 years and 3.2 months and therefore the tilted balance in favour of sustainable development, as stated in paragraph 11d of the NPPF, is in effect.

NPPF paragraph 11d(ii) states that the tilted balance is in effect unless ‘any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.’

NPPF paragraph 77 requires that significant urban extensions must ‘ensure their size and location supports a sustainable community, with sufficient access to services and employment opportunities within the development itself...’. The failure to provide suitable employment land within the Newcourt allocation area would therefore create a significant adverse impact, being contrary to the requirements of paragraph 77.

As stated above, the failure to provide the employment land is contrary to CS Policies CP2 and CP19, the Newcourt Masterplan and emerging EP Policy EJ6, harming both the access to services in the surrounding area and the economy of the city and the wider Travel to Work Area. It is considered that the overall benefits of delivering residential use on this site will not outweigh the harm caused by loss of identified employment land within the city, which is required to support the increased residential developments within the city and surrounding area.

Principle Conclusions

As discussed above, the site fails to deliver a site proposed for employment in the Newcourt Masterplan. It is accepted that only limited weight can be given to the Masterplan, however this must be considered alongside the need to follow the general guidance of it, as well as the requirements of policy.

CS Policies CP2 and CP19 state a need for 16ha of employment within Newcourt, which would align with NPPF paragraph 77 requirements for sufficient access to employment within the development itself. It has been clearly demonstrated that there is a significant employment requirement within the Newcourt urban extension and that there is limited land left within the allocation site in which to provide it. The

proposal is therefore contrary to CP2 and CP19 by failing to deliver the employment required alongside the wider residential development.

Mitigation measures are mentioned in the submitted Planning Statement, however no details are provided. A comprehensive masterplan application that included this site and land to the south would be required to ensure that mitigation proposed is acceptable and would continue to deliver the significant shortfall in employment land lost by the proposed land uses.

As the Council cannot demonstrate a 5 year housing land supply the titled balance in favour of sustainable development is in effect. However, the failure to deliver the Newcourt allocation employment land would, as demonstrated in this report, create significant and demonstratable harm contrary to NPPF paragraph 11 and CS Policies CP2, CP19 and the Newcourt Masterplan.

3. Residential Density

Core Strategy (CS) Objective 1 and Local Plan (LP) saved Policies AP2 and H1 have a requirement to make 'best use of land by maximising the use of previously developed land, promoting conversions and encouraging high density development in the City Centre and in appropriate locations within the urban extensions'.

This should be read as part of the entire development plan, with LP saved Policy H2 and CS Policy CP4 requiring that this maximisation not be detrimental to local amenity, heritage assets, and the character and quality of the local environment.

The Masterplan proposes a residential density level of 50dph, however this does not state whether this is net or gross density.

The submitted Parameter Plan (SPF-LHC-00-XX-DR-L-0203 Rev P4) shows a residential area of 2.87 hectares for 158 dwellings, not including Public Open Space or green space. This creates a net density level of 55.05dph which is considered to be acceptable in line with policy requirements and the guidance of the Masterplan.

4. Site Layout and Parameter Plan

A parameter plan was submitted with the proposal showing a split between residential and employment.

Given the principle objections based on the inadequate level of employment proposed it is considered that a significant update to this parameter plan would be required. With the layout being a reserved matter it is not considered a strong enough reason for refusal, but it should be noted that the layout in its current form would not be supported and would need to be updated appropriately.

5. Access

Overview

The site is positioned adjacent to Sandy Park Way, to the north, and Old Rydon Lane, to the south. To the east is Exeter Chiefs Rugby Club and to the west is a railway line separating the site from residential dwellings and the Ikea store.

To the south-west is Newcourt railway station, with bus stops along Newcourt way to the west. The site is close to a number of walking and cycling routes identified in the Exeter Local Cycling and Walking Infrastructure Plan (LCWIP).

The application proposes two access points to the site, one to the north connecting to Sandy Park Way and a second to the south, connecting to Old Rydon Lane.

Active Travel England advised that their standing advice should be used for this application. The majority of considerations will relate to the layout at reserved matters stage, however the access is still a consideration and the standing advice has been assessed as part of this report.

The Local Highway Authority raised no objection to the proposal subject to appropriate conditions and planning obligations.

Policies

Local plan saved Policy T1 sets a hierarchy of transport modes, with sustainable and environmentally acceptable modes being referred over private vehicle use.

Saved Policy T2 advises that development should be within walking distance of facilities and transport routes.

Saved Policy T3 seeks safeguarding of existing transport routes and the provision of cycle parking for occupants/visitors.

Saved Policy H2 requires that development is not detrimental to 'the safety of local roads'.

Also of relevance is LP saved Policy H2, requiring housing provision which is accessible to a range of employment, shopping and other facilities, and saved Policy DG1 that requires connecting effectively with existing routes and spaces and putting people before traffic.

CS Policy CP4 states that 'residential development should achieve the highest appropriate density compatible with the protection of heritage assets, local amenities, the character and quality of the local environment and the safety and convenience of the local and trunk road network'.

CS Policy CP17 requires development in the Newcourt area to 'be set around a high quality sustainable movement network to encourage pedestrian and cycle trips and to provide easy access to the Exe Valley strategic greenway and to Ludwell Valley Park.'

CS Policy CP19 requires, as part of the wider Newcourt area, new pedestrian and cycle crossings of the A379 and the railway line, a new transport hub to include rail halt and bus interchange, improvements to the strategic road network and a new link road through the development. At this late stage of the Newcourt urban extension the strategic links have been provided, including pedestrian and cycle crossings over the A379 at Sandy Park, the new Newcourt railway station and the primary link road through to the A379.

The Newcourt Masterplan shows a primary route directly onto the A379, which has been delivered. Old Rydon Lane, to the south, is shown as a secondary route and habitat link. It is noted in the Masterplan that 'Old Rydon Lane will be managed with the aim of avoiding additional traffic using this route to access the Masterplan area and to ensure that it does not become attractive as a through route for private vehicular traffic.'

Trip Generation

The application site sits close to the M5 junction 30 and therefore creates potential impacts on the junction capacity. National Highways were consulted on the proposal and raised initial objections due to lack of up-to-date information. Following submission of additional details this objection was removed.

The submitted details identify M5 'pinch point' improvements in 2015 and modelled reductions in traffic between 2017 and 2022 and showed minimal traffic flow increases. This was reviewed by National Highways and confirmed that the development would be '...unlikely to result in an unacceptable impact on the safe operation of the SRN...' (Strategic Road Network).

The Local Highway Authority (LHA) considered that the submitted Transport Assessment was suitable and demonstrated approximately 229 vehicle movements in the AM and PM peak periods and that whilst there would be an increase in traffic it would not create an unacceptable impact on the highway safety.

It was noted that whilst there have been Personal Injury Collisions (PIC) in the nearby area there is no identifiable clusters of accidents or irregular casualty patterns. The LHA advised that this would not indicate any existing safety issues that would be exacerbated by the proposed development.

Northern Access

The northern access is proposed to connect directly onto a roundabout on Sandy Park Way leading to a signal controlled junction onto the A379. Sandy Park Way has been designed to accommodate traffic from site, and land to the south of Old Rydon Lane, and is still considered by the LHA to be suitable for this use and is in accordance with the Masterplan aims.

The tracking provided was considered by the LHA to be acceptable in terms of the junction design.

Comments were submitted from the Rugby Club advising that they owned the strip of land between the Sandy Park Way roundabout and the application site. Whilst this is the case, the LHA advised that they have surface rights for the connection and this would allow the connection to be made.

Should any issues arise with the LHA access then the developer would be required to enter into legal agreement with the Rugby Club to create the access.

Southern Access

To the south the proposal will connect onto Old Rydon Lane. There is an existing filter on this stretch of Old Rydon Lane, preventing traffic from heading west. This will limit traffic movements on Old Rydon Lane and prevent the wider Newcourt Area being accessed through this route, in accordance with the Masterplan requirements.

The LHA raised no objections to this southern access point for vehicles, with the submitted tracking demonstrating that it is suitable for use for this site. It was noted that Old Rydon Lane offers pedestrian and cycle movements and suitable access onto this must be designed into the reserved matters proposal. However, Old Rydon Lane is heavily used during matchdays and event days by a high level of non-motorised users. Whilst this is acknowledged by the LHA as being tidal, there is still a need to ensure that the southern access does not create unacceptable interactions between vehicles and people accessing the rugby club.

No evidence has been submitted as to how this would be managed and whether upgrades to Old Rydon Lane will be required. The LHA advised that this could be covered within a contribution, however it is concluded that as Access is being

considered as part of this application there is a need to understand how this will be managed and to secure any planning obligations necessary.

The application therefore creates unacceptable highway safety impacts contrary to LP saved Policy H2, CS Policies CP4 and CP16 and NPPF paragraph 116. It is acknowledged that this may be resolved through additional details being submitted, however this will not resolve the in-principle issue over the lack of employment use. Submission of this would therefore place unnecessary cost on the applicant that would still result in a refusal and has therefore not been undertaken.

The southern access will result in the removal of two trees (T3 and T4) with the submitted Arboricultural Impact Assessment noting this as having a 'moderate impact' and that the removal 'will be noticeable in the locality'.

The Council's Tree Officer advised that they 'make a significant contribution to the character and visual amenity of the area' and that 'given the limited number and density of trees on site it is considered a more sympathetic design could incorporate these trees...'.

The position of the access point was based on the access proposed for a 2014 application (14/1451/OUT). The 2014 application was extant at the time of submission of this application, however it has since been Finally Disposed Of. This is of relevance, as the resolution to grant created a requirement to link the design of the southern access point to the other application. With the 2014 application no longer being live this design constraint has been removed and there is the opportunity to explore an access strategy that could retain these trees. It is therefore considered that the scheme creates unacceptable loss of trees T3 and T4 with insufficient assessment as to whether they could be retained through an alternative southern access position, contrary to CS Policies CP16 and CP17, and LP saved Policy LS4.

Railway Link

The site is on the eastern side of the railway line, with Newcourt railway station to the south.

The LHA considered the access route for users of the station and whether a planning contribution would be required to provide a link over/under the railway line. It is concluded that the route likely to be used by occupants of the development would utilise the existing pavement and steps, with bike ramp, and it would not be justified to request a contribution for this scheme.

Travel Plan

A Travel Plan was submitted with the application and considered to be broadly acceptable. An updated version would be required prior to occupation and this would need to be secured through a S106 Agreement if the application was approved.

Planning Obligations

As stated above, the development is in close proximity to a number of LCWIP routes, specifically E8, E9, E10, E11 and E13. A planning obligation of £125,000 was requested by the LHA to allow for improvements to these identified routes to encourage sustainable transport.

Access Conclusions

The principle of the north and south access points and the flow of traffic is acceptable and accords with the aims of the Newcourt Masterplan in utilising the A379 as the primary route and the level of vehicle movements not creating any unacceptable highway impacts.

The positioning and design of the northern access point is acceptable, with Sandy Park Way being designed to accommodate traffic from this site, and land to the south of Old Rydon Lane.

The southern access raises concerns over the design, although the principle of an access in this area is accepted. There will be the loss of two significant trees and it has not been demonstrated if a modified access position is possible that would allow for their retention. Old Rydon Lane is also heavily used on event and match days by visitors accessing Sandy Park Rugby Club and there are significant concerns over highway safety between the southern access point and non-motorised users in this area. It is acknowledged that both aspects could be resolved through revised plans and additional information/mitigation, however given the in-principle objection to the scheme the resolution of this matter will not make the scheme acceptable.

The loss of trees on the southern access point is therefore unacceptable, contrary to CS Policies CP16 and CP17, and LP saved Policy LS4, and the highway safety of the southern access is unacceptable contrary LP saved Policy H2, CS Policies CP4 and CP16.

6. Other Highway Matters

The final development would be expected to provide cycle parking for all dwellings and employment uses in accordance with Sustainable Transport SPD levels, as well as suitable pedestrian and cycle routes through the site.

A Transport Hub is proposed as part of the development and this would be secured via condition on any approval to allow for bike/vehicle hire facilities to be provided. Whilst there is no current operator approved by Devon County Council, the space should be secured for when a new company is appointed.

To ensure impacts during construction are limited a condition for a Construction Management Plan would need to be placed on any approval, alongside handling of surface water/detritus during the construction phase.

7. Amenity Impacts

LP saved Policy H2 and CS Policy CP4 require that housing developments are at the highest density without detriment to local amenity. LP saved Policy DG4 requires that residential development should take into account impacts on the local area and ensure a quality of amenity which allows residents to feel at ease within their homes and gardens.

There will be a level of impact generated from vehicle movements in and out of the site, however due to the primary access being to the north onto the busy A379 it is not considered that these will be significant. To the south, the access link will see future access into the land to the south of Old Rydon Lane, as well as allowing access to/from the application site. The trip generation has been previously considered and it is concluded that there will not be any significant amenity impacts generated that would warrant a refusal.

The internal layout of the site is subject to reserved matters and therefore matters such as overlooking, loss of light or similar concerns will be assessed fully at that stage, alongside suitable mitigation, should the application be approved.

It is concluded that there will not be any significant amenity impacts generated from this proposal, subject to further assessment at reserved matters stage.

8. Air Quality

LP saved Policy EN3 states that 'development that would harm air or water quality will not be permitted unless mitigation measures are possible and are incorporated as part of the proposal'.

CS Policy CP11 requires development to be 'located and designed so as to minimise and if necessary, mitigate against environmental impacts'.

An Air Quality Impact Assessment (AQIA) was submitted with the proposal. The Council's Environmental Health team noted that this did not include the impact of the scheme on the location where current concentrations are highest, East Wonford Hill.

An update to the AQIA is required to include this information. However, in light of the in-principle objections to the development it is not considered appropriate to place additional costs on the applicant to update the AQIA, as it would not resolve the underlying issues with the development proposal. The development is therefore unacceptable due to lack of detail on air quality issues, contrary to LP saved Policy EN3 and CS Policy CP11.

9. Contamination

LP saved Policy EN2 requires site assessments where there is considered to be a risk of contamination.

The submitted Contamination Report recommended further intrusive investigation, a view supported by the Council's Environmental Health team. Any approval should therefore include a condition for an intrusive site investigation and remediation as necessary.

10. Noise

CS Policy CP11 requires development to be 'located and designed so as to minimise and if necessary, mitigate against environmental impacts'.

LP saved Policy EN5 states that noise generating development will not be permitted if it would be liable to increase adversely the noise of existing or proposed noise sensitive developments nearby.

A Noise Impact Assessment was submitted with the proposal. The Council's Environmental Health team raised queries regarding the use of air source heat pumps and the precision of locations for monitoring background noise levels. In line with this, a condition would be necessary to ensure new building service plant is 5dB below background noise levels and an update to the Noise Impact Assessment.

Comments were also made regarding the need for an outline monitoring plan during construction. This is not considered necessary at this stage and could be secured through a Construction Environment Plan condition should the application be approved.

11. Ecology

LP saved Policy LS4 states that development that would harm a site of nature conservation importance, a site of local interest for nature conservation, a regionally

important geological/geomorphological site, landscape features which are of importance for wild fauna, or wildlife corridors will only be permitted if:

The need for the development is sufficient to outweigh nature conservation considerations; and

The extent of any damaging impact is kept to a minimum and appropriate mitigation and compensatory measures are implemented.

CS Policy CP16 requires (alongside other aspects) protection and enhancement of environmental assets. It also requires protection of sites of national, regional and local conservation importance with suitable mitigation for any unavoidable impacts.

CS Policy CP17 requires that development in Newcourt will 'retain and integrate hedgerows and mature trees...'.

Paragraph 187 of the NPPF is also of relevance, stating that decisions should minimise impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures and incorporating features which support priority or threatened species such as swifts, bats and hedgehogs

The application was submitted prior to the introduction of mandatory 10% Biodiversity Net Gain, however it will still be required to demonstrate an overall net gain in line with the requirements of NPPF paragraph 187.

The Council's ecologist was consulted on the proposal and raised objections, noting that surveys were now out-of-date and that additional information was required.

The submitted on-site surveys were from 2021 and as they are now over 3 years old are out of-date, requiring updated Phase 1 and Phase 2 surveys, with a reassessment of their findings. It was also noted that Table 2.4 in the submitted ecology report was missing information. Further information was also required in relation to reptile mitigation, specifically the 'receptor site' for any translocated reptiles.

The Council's ecologist also noted that relevant mitigation for roosting bats needed to be detailed in the ecology report, alongside clear securing of a 10m dark corridor for bat activity along the western boundary.

The application was submitted prior to the mandatory 10% Biodiversity Net Gain, however an overall net gain has been demonstrated through submission of a metric calculation.

Due to the out-of-date and missing information, the proposal is not considered to demonstrate that there will not be significant impact to environmental assets and wildlife corridors or that suitable mitigation can be provided. The proposal is therefore contrary to LP saved Policy LS4 and CS Policy CP16. It is acknowledged that updated surveys could be undertaken and additional information provided that may overcome these issues. This would not resolve the in-principle refusal reason relating to lack of employment use and is therefore not considered appropriate to place additional costs on the applicant to submit these details.

Trees

As discussed in the 'Access' section of this report there is an objection from the Council's Tree Officer regarding the loss of three specific trees.

Tree T16 is within the eastern area of the site and it's does not relate to the creation of the access, but forms part of the indicative layout. This would therefore fall outside the scope of this outline application and its loss would need to be considered at reserved matters stage.

Trees T3 and T4 are proposed to be removed to create the southern access point, with the submitted Arboricultural Impact Assessment noting this as having a 'moderate impact' and that the removal 'will be noticeable in the locality'. The Council's Tree Officer advised that they 'make a significant contribution to the character and visual amenity of the area' and that 'given the limited number and density of trees on site it is considered a more sympathetic design could incorporate these trees...'.

It is noted that the position of the access point was based on the access proposed for a 2014 application (14/1451/OUT). The 2014 application had a resolution to grant, however the S106 Agreement was never signed and therefore the formal decision was never issued. The 2014 application was extant at the time of submission of this application, however it has since been Finally Disposed Of. This is of relevance, as the resolution to grant created a need to link the design of the southern access point to the other application. With the 2014 application closed this constraint has been removed and there is the opportunity to explore an access strategy that could retain these trees.

It is therefore considered that the scheme creates unacceptable loss of trees T3 and T4 with insufficient assessment as to whether they could be retained through an alternative southern access position, contrary to CS Policies CP16 and CP17, and LP saved Policy LS4.

Habitat Regulations Assessment

The site is within the zone of influence for protected Exe Estuary Special Protection Area (SPA) and East Devon Pebblebed Heaths Special Area of Conservation (SAC) and Special Protection Area. In accordance with the Habitat Regulations and on the advice of Natural England an Appropriate Assessment has been undertaken. This concluded that the proposal would generate recreational impacts due to increased visitor numbers to these protected areas.

There is an existing financial mitigation process in place through the South East Devon European Site Mitigation Strategy which is calculated at a current payment of £1,676.10 per residential unit. This is top-sliced from Community Infrastructure Levy (CIL) payments, however any Affordable Housing units would not be CIL liable. It is therefore required to include these mitigation payments through the S106 Agreement.

Ecology Conclusions

The submitted survey information is out-of-date and the ecology report is missing information including details of bat roosts, dark corridors and reptile translocation sites. The proposal therefore fails to demonstrate that if there will be significant impact to environmental assets and wildlife corridors and that suitable mitigation can be provided is contrary to LP saved Policy LS4 and CS Policy CP16.

There will be the loss of two established trees at the southern access point. It has not been clearly demonstrated that the access point must be in this location and whether a revised position could see retention of these trees. In light of this, the proposal is contrary to CS Policies CP16 and CP17, and LP saved Policy LS4.

It has been established that recreational impacts to protected European Sites will be generated through the additional housing. Mitigation for this would be secured through top-slicing of CIL for market housing and a planning obligation for affordable housing.

12. Drainage

Core Strategy Policy CP12 requires development to utilise sustainable urban drainage where feasible and practical.

Local Plan saved Policy EN4 requires that development does not increase the likelihood of flooding or be at risk from flooding. This is further supported by Core Strategy CP12 that sets a sequential test assessment for sites and requires appropriate mitigation measures.

LP saved Policy EN3 requires that development does not harm water quality without acceptable mitigation measures incorporated into the development.

The site is within Flood Zone 1 and is at low risk of tidal or fluvial flooding. There is historic surface water flooding just outside the site boundary to the north, where a steep slope declines to meet the edge of the A379.

The Lead Local Highway Authority were consulted on the proposal and raised an objection. The submitted details did not specify which drainage techniques are proposed, with infiltration and other techniques referenced in the submitted report. The infiltration rates submitted appear to show a very low rate and information is required on how the surface water can be discharged, including agreement of use of a requisitioned surface water sewer. The submitted FSR rainfall methodology is not in line with best practice and is considered out of date. An FEH methodology is therefore required.

In light of this, a revised Flood Risk Assessment is required to provide this information. Due to the principle issues identified with this application it was not considered appropriate to require this to be submitted, as it would not resolve those core refusal reasons.

The proposal is therefore contrary to LP saved Policies EN3 and EN4 and CS Policy CP12, as it fails to demonstrate an acceptable sustainable urban drainage system, will not increase the risk of flooding and will not harm water quality.

13. Heritage

There are no listed building within or immediately adjacent to the application site and it does not sit within a Conservation Area. The closest listed buildings are to the north-west, in Clyst Heath, separated by the A379 and residential housing and to the south-west at Newcourt House, separated by a train line and residential housing. The site is not within an Area of Archaeological Importance, however there is still a risk of archaeological remains being found on site.

LP saved Policy C5 requires preservation of archaeological remains were possible, or if not feasible then a recording programme.

A Heritage Statement was submitted with the application which noted that geophysical surveys have been undertaken in the south and north of the site and recommends further trial trenching, excavation and reporting. This is consistent with developments in this area and a condition requiring a Written Scheme of Archaeological Investigation should be placed on any approval notice.

14. Energy

LP saved Policy DG2 requires that development be laid out and designed to maximise the conservation of energy.

CS Policy CP13 requires new development of 10 or more dwellings to connect to any existing or proposed Decentralised Energy Network.

CS Policy CP14 requires development of 10 or more dwellings to use decentralised and renewable or low carbon energy sources to cut predicted CO2 emissions by at least 10% above Building Regulations.

CS Policy CP15 requires domestic development to achieve above the Code for Sustainable Homes Level, although it is acknowledged that Building Regulations have now superseded this requirement. CP15 also requires non-domestic buildings to meet BREEAM 'Excellent' standards and be zero carbon.

The layout and detailed design of the development will be dealt with at Reserved Matters and therefore these requirements will form part of the detail required to be submitted at that stage, with a condition placed on any approval notice to ensure this.

It is acknowledged that there are not currently any Decentralised Energy Networks (DEN) within the immediate area, however there is the possibility of them coming forward in the future. It is therefore appropriate to place a condition requiring connection to a DEN if it is at all possible at the time of Reserved Matters or delivery of dwellings. This will ensure compliance with CS Policy CP13.

A Waste Audit Statement was submitted with the application, which advised that detailed information will be provided at Reserved Matters stage. The Waste Planning Authority (DCC) were consulted on the proposal and raised no objection to this, subject to a condition to secure this in accordance with Devon Waste Plan Policy W4.

15. Green Space and Play

LP saved Policy DG4 requires that family housing proposals 'should provide 10% of the gross development as level open space, including equipped children's play space. Unless there is an open space and play provision in the area which is well located and of sufficient size and quality to serve the development'.

LP saved Policy L4 requires contribution to the provision of youth and adult play space.

As the layout is not a matter being secured as part of this Outline application it would be necessary to place a condition requiring a minimum 10% of site to be level open space and for this to be demonstrated at Reserved Matters application stage.

The development would need to provide Local Areas of Play (LAP) and Local Equipped Areas of Play (LEAP) depending on the final layout. Any approval would include an informative with guidance on expected levels. A LAP should be within 100 metres of all dwellings and a LEAP should be within 400 metres of all dwellings.

Developments between 10-200 dwellings are required to contribute to improvements/upgrades of off-site Youth Facilities and/or MUGAs for older children. The Council's Public and Green Spaces Team requested a planning contribution towards improvements of a MUGA at Omaha Drive. These matters would be secured through S106 Agreement.

16. Affordable Housing

CS Policy CP7 requires a provision of 35% of the total housing provision to be Affordable Housing (AH), with the mix to be based on the latest housing demand calculations.

The proposal advises that 35% AH will be delivered on site and this is policy compliant. The types of housing to be provided will be dealt with at reserved matters stage.

17. Planning Obligations

CS Policy CP18 states that new development must be supported by appropriate infrastructure in a timely manner. Developer contributions will be sought where necessary to mitigate adverse impacts to ensure the physical, social, economic and green infrastructure is in place to deliver acceptable development.

The following matters are considered necessary to make the development acceptable in planning terms, to be directly related to the development, and fairly and reasonably related in scale and kind to the development meeting the tests set out in Regulation 122.

- 35% Affordable Housing to meet CS Policy CP7 requirements.
- NHS Devon Integrated Care Board obligation of £686 per dwelling for expansions at Hill Barton Surgery, Glasshouse Lane Medical Centre and Topsham Surgery to accommodate population growth.
- Following an Appropriate Assessment under the Habitat Regulations Assessment requirements it is necessary to secure habitat mitigation of £1,676.10 per Affordable Dwelling to mitigate harm to the Exe Estuary Special

Protection Area and the East Devon Pebblebed Heaths Special Area of Conservation and Special Protection Area.

- Provision of LEAP and LAP in accordance with Fields in Trust guidance as well as financial contribution to off-site MUGA improvement at Omaha Drive.
- A Local Highway Authority obligation of £125,000 to encourage sustainable transport through improvements to the LCWIP routes E8, E9, E10, E11 and E13.
- £10,000 for Traffic Regulation Orders needed for changes to the public highway.

18. Summary and Planning Balance

As stated previously the Council cannot currently demonstrate a 5 year housing land supply and the tilted balance is in effect. However, there is a clear identification in CS Policies CP2 and CP19 for 16ha of employment to be delivered within the Newcourt urban extension, with none having been delivered. There are limited opportunities left to deliver this employment, with this further demonstrated by the employment allocation in the emerging EP Policy EJ6. It is considered that the failure to provide adequate employment levels on this site creates significant and demonstrable economic and employment harm that outweighs the benefits of additional residential dwellings, including Affordable Housing contrary to NPPF paragraph 77(b), CS Policies CP2 and CP19 and the Newcourt Masterplan.

The southern access position will result in the loss of trees T3 and T4 and insufficient evidence has been provided to demonstrate whether they could be successfully retained. This is contrary to Local Plan saved Policy LS4, Core Strategy Policies CP16 and CP17.

The application fails to demonstrate that no unacceptable air quality impacts will be created by the proposal, specifically to the East Wonford Hill area, contrary to Local Plan saved Policy EN3 and Core Strategy Policy CP11.

The proposal fails to demonstrate the level of impact to environmental assets and wildlife corridors if that suitable mitigation can be provided contrary to LP saved Policy LS4 and CS Policy CP16.

The application does not demonstrate an acceptable sustainable urban drainage system for the site, failing to show there will not be an increased risk of flooding and fails to demonstrate there will be no harm to water quality contrary to Local Plan saved Policies EN3 and EN4 and Core Strategy Policy CP12.

It is acknowledged that the matters of southern access position, air quality and drainage may be able to be resolved through submission of revised information. However, this would not resolve the significant policy conflict generated through low level of employment on this site.

17.0 Conclusion

Whilst the development of this greenfield site is accepted, with it allocated in both the CS and the emerging EP, the proposed use mix is not acceptable, with the site shown as employment land in the Newcourt Masterplan and emerging EP Policy EJ6. The masterplan has limited weight, however when read alongside CS Policies CP2 and CP19 there is a clear conflict with no employment land having currently been provided in the Newcourt area. Whilst the tilted balance is in effect, this is a significant and demonstrable harm that would not outweigh the benefits of additional residential units on this site.

There are significant issues with other aspects of the scheme, including loss of trees at the southern access point, air quality considerations, drainage design and the need to update ecological information. These are matters that may be resolved through revised details, however given the unacceptable nature of the mixed residential/employment use of this site it is not considered appropriate to request revised details as they would not overcome that refusal reason.

18.0 Recommendation

REFUSE for the following reasons:

1. The proposal fails to deliver adequate employment to meet levels required by Core Strategy Policies CP2 and CP19, the Newcourt Masterplan and NPPF paragraph 77 to serve both the Newcourt urban extension, city and the wider area.
2. The southern access position will result in the loss of trees T3 and T4 and insufficient evidence has been provided to demonstrate whether they could be successfully retained. This is contrary to Local Plan saved Policy LS4, and Core Strategy Policies CP16 and CP17.
3. The proposal fails to demonstrate safe and suitable access, specifically the interaction between motorised vehicles and non-motorised users at the southern access point onto Old Rydon Lane on event and match days at Sandy Park Stadium. This creates an unacceptable highway safety impact contrary to Local Plan saved Policy H2, Core Strategy Policies CP4 and CP16, and NPPF paragraph 116.

4. The submitted details fail to demonstrate that no unacceptable air quality impacts will be created by the proposal, specifically to the East Wonford Hill area, contrary to Local Plan saved Policy EN3 and Core Strategy Policy CP11.
5. The proposal fails to demonstrate an acceptable sustainable urban drainage system for the site, fails to demonstrate there will not be an increased risk of flooding and fails to demonstrate there will be no harm to water quality contrary to Local Plan saved Policies EN3 and EN4 and Core Strategy Policy CP12.
6. The proposal fails to demonstrate the level of impact to environmental assets and wildlife corridors and fails to demonstrate that suitable ecological mitigation can be provided contrary to Local Plan saved Policy LS4 and Core Strategy Policy CP16.
7. In the absence of a Section 106 legal agreement in terms that are satisfactory to the Local Planning Authority which makes provision for the following matters:
 - 35% Affordable Housing provision
 - £1,676.10 per Affordable Home unit to mitigate for recreational harm to the Exe Estuary Special Protection Area and East Devon Pebblebed Heaths Special Area of Conservation and Special Protection Area.
 - Provision of a LAP and LEAP on site and financial contribution towards improvements to off-site MUGA at Omaha Drive.
 - A Local Highway Authority obligation of £125,000 to encourage sustainable transport through improvements to the Local Cycling and Walking Infrastructure Plan routes E8, E9, E10, E11 and E13.
 - £10,000 for Traffic Regulation Orders needed for changes to the public highway.
 - £686 per dwelling for expansions at Hill Barton Surgery, Glasshouse Lane Medical Centre and Topsham Surgery to accommodate population growth.
 - Management company to manage/maintain public open space on the site

the proposal is contrary to Exeter Core Strategy Policies CP7, CP9, CP16 and CP18, Exeter City Council Affordable Housing Supplementary Planning Document 2014 and Exeter City Council Sustainable Transport Supplementary Planning Document 2013.