

EXETER CITY COUNCIL

PLANNING COMMITTEE

26 FEBRUARY 2007

A379 Road junction applications.

Reference Nos. 06/1673/03 and 06/2640/03.

Background.

In 1996 a feasibility study was conducted into the possible future development of the Newcourt Area (Newcourt Feasibility Study). The study covered land between the A379 and Old Rydon Lane, and the Royal Naval Stores Depot (RNSD), which lies between Old Rydon Lane and Topsham Road. The RNSD is essentially split into two parts linked by a currently private internal road running between the two sites and these are known as the Upper and Lower RNSD sites. The Upper RNSD site comprises land south of Old Rydon Lane and is bounded by the branch railway line, golf course and Newcourt House to the East, South and West respectively. The Lower RNSD site is situated behind properties on Topsham Road and surrounded by the golf course and agricultural land. The Newcourt Feasibility Study looked at a number of options/mixes of uses within the area, and the potential highway impacts associated with the various options. The Study concluded that an adopted highway link between the Upper and Lower parts of the RNSD would be required and that depending upon the ultimate levels of development proposed, a full two way road link between Topsham Road, through both the Lower and Upper RNSD sites and the land north of Old Rydon Lane onto the A379 would be required. The trigger for the full link road would be development that would generate greater levels of traffic entering Topsham Road than the pre-existing use of the RNSD.

Through the Local Plan process, development of the area was explored further and potential quanta of development identified. The conclusion was that the full level of development proposed would generate greater traffic levels than the existing use and therefore the link from Topsham Road to the A379 would be required. Subsequently, within the adopted Local Plan, land in the Newcourt area was allocated for housing and employment development supported by a neighbourhood centre to include primary school, local shops, open space and community facilities (Policy KP8). As part of the development of this area in accordance with Policy KP8, a link road is to be provided between the A379 and Topsham Road. The policy limits the number of dwellings to 200 until the link road has been provided. On the Proposals Map accompanying the Local Plan, an indicative position for the new junction with the A379 is shown and this position is shown on the dividing line between the different land ownerships of the two applicants of the proposals now under consideration. An extract of this plan is attached as **Appendix K**. It was hoped that the two parties would then reach agreement and come forward with a single proposal in this approximate position. However, this has not proved possible and consequently the two current separate applications have been submitted for determination. A plan depicting the two schemes in comparison with each other is attached as **Appendix L**.

Part of the allocated land (known as the Upper RNSD) also has outline consent for residential development and a primary school, local shops and community facilities (Application Reference 02/1402/01). The application was approved on appeal and includes a Master Plan showing an indicative road link from Topsham Road to the A379. As part of this application, a Planning Obligation under Section 106 of the Town and Country Planning Act 1990 was completed which, amongst other things, covered phasing of the development. The phasing arrangements reflect Policy KP8 and state that, until construction of the link road has commenced, no more than 200 dwellings can be constructed on the site, and that once the link road has been constructed and opened to the public, the balance of dwellings pursuant to the outline consent can be provided.

Consequently, the delivery of the link road is the key to opening up the allocated residential development of the Lower RNSD, and the employment and residential land between Old Rydon Lane and the A379, and the delivery of these objectives within the Local Plan.

Two alternative proposals have been submitted by different applicants for different designs of junction with the A379, with roads connecting with Russell Way to the north and the development land to the south. The two applications falling to be determined now are modified versions of those originally submitted, and are referred to in this report as “the Spen Hill Scheme” and “the Dukeminster Scheme”. The former includes a crossroads where the new road meets the A379, whereas the latter includes a staggered junction. Both proposals have fully signalised junctions.

It is important to note that it is physically impossible to build both schemes. There is significant overlap on land between the A379 and Russell Way to the north. On the south side, the schemes are based on different alignments of the westbound carriageway of the A379, so it would also be physically impossible to build this element of both schemes. The County Council’s Director of Environment, Economy and Culture has indicated to the applicants throughout discussions of these proposals that he could only support one junction with the A379. In his view, two accesses onto the dual carriageway in such close proximity would not only be unnecessary, but also unacceptable in view of the impact on highway safety and the operational difficulties of having two signal-controlled junctions close together.

City and County officers have made concerted attempts to encourage both parties to reach a common approach to the design of this junction. The applicants have nevertheless chosen to proceed with their respective applications. As it is inevitable that one applicant will not be able to build its scheme, Counsel’s advice has been taken as to the legal issues surrounding the determination of two competing applications, and the procedures which should be adopted to ensure even-handedness and to avoid a situation where a disappointed applicant would be justified in challenging the Council’s decisions.

Counsel’s advice is summarised in Part 1 of Appendix N.

As a result of the advice received, **the Council’s Planning Solicitor wrote to both applicants on 17 November 2006 (copies attached as Appendix A)**, inviting them to agree to an approach whereby both applications would be presented to the same meeting of the Planning Committee, setting out the material considerations against which both applications would be judged, and pointing out any obvious deficiencies in relation to their respective schemes. **Both applicants responded, agreeing with this approach and copies of these responses are attached as Appendix B.**

The merits of both schemes are considered against those material considerations in the “Observations” section of this report.

History of the site

Application 06/1673/03 – Applicant – Spen Hill Developments Ltd

The current proposal follows an earlier application for a new road and junction on the land, the details of which are as follows: -

05/1379/03 - Provision of a highway junction for access to Russell Way to the north and land to the south of highway. Land to south of A379, Newcourt and, Russell Way. Applicant - Spen Hill Developments Ltd. This application has been withdrawn.

Application 06/2640/03 – Applicant – Dukeminster Ltd and The Pratt Group

The current proposal follows earlier applications for a new road and junction on the land, the details of which are as follows: -

06/1804/03 - Provision of a highway junction for access to Russell Way to the north and a link road to Old Rydon Lane in south. Land to South of A379, Newcourt and Russell Way. Applicant – Dukeminster Ltd and The Pratt Group. This application is at present still undetermined by the Local Planning Authority but the applicants have requested that it be held in abeyance pending the determination of application 06/2640/03, which is on this agenda.

06/0021/03 – Provision of a highway junction for access to Russell Way to the north and a link road to Old Rydon Lane in south. Land to the south of A379, Newcourt and, Russell Way. Applicant – Dukeminster Ltd. This application has been withdrawn.

Although not directly on the site of either of the applications under consideration the following applications relating to the development of land to the south of Old Rydon Lane (the former Royal Naval Stores Depot) are considered relevant: -

02/1402/01 – Redevelopment to provide residential units, community facilities and primary school, highway access improvements, car parking and associated works (siting, design, landscaping and external appearance reserved for future consideration). Land formerly used as Royal Naval Store Depot, Topsham Road Exeter. This application was allowed on appeal following an Inquiry in 2003.

05/1718/03 – Amendment to road alignment (Ref. 02/1402/01 granted 19 July 2004 on appeal). Former Royal Naval Store Depot, Topsham Road Exeter. Approved subject to conditions on 08 December 2005.

06/2000/02 – Redevelopment to provide 315 dwellings, parking and associated works (approval of reserved matters on Ref No. 02/1402/01 granted 19 July 2004) for siting, design, landscaping and external appearance. Refused 21 December 2006.

06/2001/02 - Redevelopment to provide 80 dwellings, parking and associated works (approval of reserved matters on Ref No. 02/1402/01 granted 19 July 2004) for siting, design, landscaping and external appearance. Refused 21 December 2006.

Description of Site/Proposal

Application 06/1673/03 (The Spen Hill Scheme)

The extent of the site includes the carriageway of the A379 itself, embankments on either side, the field adjacent the existing Russell Way loop off the A379, and highway land including Russell Way and the roundabout giving access to Lewis Crescent.

On the north side of the A379 the proposal involves replacing the existing roundabout linking Russell Way, Lewis Crescent and the A379 with T-junctions, new slip lanes onto and off the A379, and a traffic light controlled junction facilitating crossing the A379, right turn into Russell Way for traffic on the westbound carriageway of the A379 and right turn for eastbound traffic on the A379 into land to the south.

On the south side of the A379, the proposal comprises the creation of a new traffic light controlled junction and road linking the A379 with land to the south. This junction would provide new slip lanes onto and off the A379 from the land to the south, the crossing of the A379 to Russell Way and right turns from the land to the south onto the eastbound carriageway of the A379. This southern arm of the junction would extend south to a 4 arm roundabout situated in the southern most corner of the site that would give access to allocated employment land either side of the road and allocated residential land to the south.

The proposal also incorporates an at-grade crossing of the A379 for pedestrians and cyclists as well as a grade separated crossing in the form of ramps and a bridge.

Application 06/2640/03 (The Dukeminster Scheme)

The extent of the site includes the carriageway of the A379 itself, embankments on either side, a corridor of land across fields adjacent to the A379 extending down to Old Rydon Lane, a small section of Old Rydon Lane itself, and highway land including Russell Way and the roundabout giving access to Lewis Crescent.

On the north side of the A379 the proposal involves replacing the existing roundabout linking Russell Way, Lewis Crescent and the A379 with T-junctions, new slip lanes onto and off the A379, and a traffic light controlled junction facilitating right turns onto the westbound carriageway of the A379 from Russell Way. Other alterations to the carriageway of the A379 will provide for a right turn lane from the westbound carriageway into Russell Way and a right turn from the eastbound carriageway into the land to the south.

On the south side off the A379, the proposal comprises the creation of a new staggered traffic light control junction linking the A379 with the land to the south. This junction would provide new slip lanes onto and off the A379 from the land to the south and right turns from the land to the south onto the eastbound carriageway of the A379. There is no provision for an at-grade crossing of the A379 in this proposal and the design would positively discourage this by fencing and landscaping that would guide pedestrians and cyclists onto a grade

separated crossing comprising ramps and a bridge. This junction would then extend southwards in the form of a new road that would link into Old Rydon Lane and provide direct access to the allocated residential land to the south (i.e., the former Royal Navy Stores Depot). Approximately half way along the new road a 4-arm roundabout is proposed that would give access to allocated employment land either side of the road.

On both sites, the land south of the A379 slopes down towards Old Rydon Lane. The embankments common to both applications are identified as sites of local interest for nature conservation.

Supporting Information Supplied by applicants.

Application 06/1673/03 (The Spen Hill Scheme)

The application is accompanied by various supporting documents including: -

- Planning Statement
- Transport Assessment
- Ecological Appraisal
- Landscape Supporting Statement
- Geophysical Survey Report
- Drainage Strategy and Flood Risk Assessment
- Air Quality Assessment

Application 06/2640/03 (The Dukeminster Scheme)

The application is accompanied by various supporting documents including: -

- Design and Access Statement
- Transport Assessment
- Ecological Assessment
- Landscape and Visual Assessment
- Archaeological Evaluation
- Flood Risk Assessment
- Air Quality Assessment

Although slightly different titles have been used the range of documents submitted by both parties cover the same subject matter.

Representations

Spen Hill and the Dukeminster/Pratt Group have both commented on each other's proposals. **Copies of letters from both parties' agents are reproduced at Appendix C.**

Application 06/1673/03 (The Spen Hill Scheme)

10 other letters of representation have been received in respect of this application raising the following concerns: -

- Need for adequate assessment of ecological impact and appropriate mitigation measures
- Impact on access to Lewis Crescent
- Pedestrian links to Tesco
- Impact on Old Rydon Lane
- Congestion
- Highway safety implications of a traffic light controlled junction onto A379
- Ecological impact
- Sustainability of providing new road
- Amenity impact upon existing residential properties in locality
- Desirability in highway safety terms of an at-grade crossing of A379 for pedestrians/cyclists
- Flood risk
- Possible presence of gas main on line of indicative link to Old Rydon Lane
- Uncertainty regarding route of full link from new road to Old Rydon Lane
- Proximity to other junctions on A379
- Assumptions/conclusions in Travel Assessment
- Impact on businesses in locality
- Desirability of providing link between land to north and south of A379
- Comprehensiveness
- Failure to facilitate release of allocated land
- Landscape/visual impact

Application 06/2640/03 (The Dukeminster Scheme)

7 other letters of representation have been received in respect of this application raising the following concerns: -

- Lack of connection of cycle bridge to existing Rydon Lane cycle path
- Impact of design of junction on north side of A379 and impact on Lewis Crescent/highway safety
- Traffic movements being catered for in junction design, unnecessary movements and impact on highway safety
- Site includes land in private ownership
- Access from Lewis Crescent to Russell Way
- Preference for flyover of A379
- Increase in traffic levels on Old Rydon Lane
- Pollution associated with traffic
- Traffic management issues
- Impact on Sandygate roundabout
- Impact of signalised junction on A379 upon traffic conditions
- Contrary to previous suggestions that there would be no direct link between development land and Old Rydon Lane (i.e. flyover)
- Loss of ability to traverse Old Rydon Lane in both directions along its entirety (associated increase in journey lengths and congestion)
- Impact on businesses in locality

A letter of support for the principle of a link road to Old Rydon Lane has also been received on the proviso that the road has sufficient capacity to serve all the currently allocated land and land being considered in emerging Local Development Framework documents appertaining to this part of the City.

Consultations

Application 06/1673/03 (The Spen Hill Scheme)

Environment Agency – confirms no objection to the proposal provided that the development proceeds in accordance with the submitted Flood Risk Assessment. Various pollution prevention measures are advocated during any construction works.

Highways Agency – On 8 February 2007, the Highways Agency issued a “Holding Direction” in respect of both applications (copies are reproduced as **Appendix M**). The Direction prevents the local planning authority from granting permission for a period of six months. The principal requirement of the Highways Agency is for more transport assessment work to be done to establish the likely impact of increased traffic on Junction 30 of the M5 (it is only motorways and trunk roads which fall within the Agency’s jurisdiction). Discussions have taken place with the Highways Agency, during which it has become clear that their need for further assessments relates to future proposals to develop sites served by the new road, rather than the proposals for the road (which will not in itself generate traffic). Neither that further development, nor a connection to Old Rydon Lane, can take place without further planning applications, at which time the necessary transport assessments can be provided. On this basis they have confirmed that the Holding Direction is being withdrawn.

Environmental Health – Comments are reflected in the Air Quality section of this report.

Countryside Projects Officer – Comments are reflected in the Visual Impact and Wildlife Interest sections of this report.

Natural England – Comments awaited.

Director of Environment, Economy and Culture – Comments on the merits of the scheme and recommendation have been received and are reproduced as **Appendix D**.

Application 06/2640/03 (The Dukeminster Scheme)

Environment Agency – confirms no objection to proposed development provided that all surface waters are managed in accordance with the principles of Sustainable Urban Drainage as advocated by the submitted Flood Risk Assessment. Various pollution prevention measures are advocated during any construction works.

Highways Agency – On 8 February 2007, the Highways Agency issued a “Holding Direction” in respect of both applications (copies are reproduced as **Appendix M**). The effect of the Direction and the concerns of the Highways Agency are as set out above in relation to the Spen Hill Scheme. In the case of the Dukeminster Scheme, with one exception, none of the further development to be served by the new road can take place without further planning applications, at which time the necessary transport assessments can be provided. The exception is the Upper RNSD site, on which outline permission for residential development has already been granted on appeal. The Highways Agency has confirmed that the Holding Direction is being withdrawn, but has requested a condition requiring no connections to be made to the Upper RNSD site or Old Rydon Lane, nor any other development to be permitted to gain access to the A379 via the new road, before a transport assessment has been submitted

to and approved by the Highways Agency, that addresses the matters set out in the letter containing their Holding Direction. However, the outline permission for development of the RNSD site is already subject to a condition requiring a transport assessment to be carried out before a road connection is made to that site from the A379. For this reason, the recommendation in this report is that rather than duplicating this condition, the proposed section 106 agreement (see **Appendix J**) should provide for the final connection to Old Rydon Lane to be synchronised with the opening of the new road from the opposite side of Old Rydon Lane to the Upper RNSD. Provision of a transport assessment is required under the existing condition (on the Upper RNSD permission) before that can happen.

Environmental Health – Comments are reflected in the Air Quality section of this report.

Countryside Projects Officer - Comments are reflected in the Visual Impact and Wildlife Interest sections of this report.

Natural England – Comments awaited.

Director of Environment, Economy and Culture – Comments on the merits of the scheme and recommendation have been received and are reproduced as **Appendix D**.

Planning Policies/Policy Guidance

Exeter Local Plan First Review 1995-2011

AP1 - Design and Location of Development

H3 – Housing

L3 – Protection of Open Space

T1 – Hierarchy of Modes

T2 – Accessibility Criteria

T3 – Encouraging Use of Sustainable Modes

T14 – Highway Schemes

C5 – Archaeology

LS4 – Local Nature Conservation Designations/RIGS

EN3 – Air and Water Quality

EN4 – Flood Risk

DG1 – Objectives of Urban Design

KP8 – Newcourt Area

Devon Structure Plan 2001 to 2016

ST1 – Sustainable Development

ST4 – Infrastructure Provision

ST10 – Exeter Principal Urban Area

ST11 – Exeter PUA Housing and Employment Provision

ST17 – Housing and Employment Provision

CO1 – Landscape Character and Local Distinctiveness

CO6 – Quality of New Development

CO8 – Archaeology

CO9 – Biodiversity and Earth Science Diversity

CO10 – Protection of Nature Conservation Sites and Species

CO13 – Protection of Water Resources and Flood Defence

CO15 – Air Quality

TR1 – Devon Travel Strategy

TR2 – Co-ordination of Land Use/Travel Planning
TR3 – Managing Travel Demand
TR5 – Hierarchy of Modes and Transport Assessment
TR6 – Network Integration
TR7 – Walking and Cycling
TR9 – Public Transport
TR10 – Strategic Road Network and Roadside Service Areas

PPS1 – Delivering Sustainable Development
PPS3 – Housing
PPS9 – Biodiversity and Geological Conservation
PPS23 – Planning and Pollution Control
PPS25 – Development and Flood risk

PPG13 – Transport
PPG16 – Archaeology and Planning

Observations

As stated above, the approach to determination of these applications has been arrived at following advice from Counsel and has been agreed with both applicants. Furthermore, both parties were advised in writing of the criteria against which proposals would be compared and assessed (**Appendix A**). The headings below encompass the criteria set out in the letters to the applicants and are considered to comprise an appropriate basis for comparing the relative merits of the two schemes for which permission has been sought.

Connections to all allocated land and implementability

The letter to both applicants dated 17 November 2006 identified as a material consideration the ability of the respective applicants to obtain the commitments of all landowners, and thereby to ensure that the roads would be complete and open to traffic by a specific date. It was indicated that this should be secured by a section 106 agreement.

Application 06/1673/03 (The Spen Hill Scheme)

The applicant Spen Hill Developments Ltd is a company within the Tesco Group. That part of the application site that is not existing public highway is entirely within the ownership of Tesco Stores Ltd (a company within the same Tesco Group). It is therefore entirely within the power of the Tesco group to implement the Spen Hill Scheme, including the necessary connections to the A379 and Russell Way, and to ensure a connection to the neighbouring land owned by the Pratt Group.

However, the Spen Hill Scheme does not include a road link to Old Rydon Lane. The applicant is not in a position to commit itself to construction of a road across the intervening land owned by the Pratt Group, hence the exclusion of this element from the scheme.

The applicant is not prepared to commit itself to commence construction within a specific time. However, it is willing to commit to completing the construction of the road once it has started, including all connections to the A379 and Russell Way and to the edge of the Pratt

Group land. It is willing to accept a condition that its road shall not be opened to traffic until the link to Old Rydon Lane has been provided. It is also willing to accept a permission with a period for implementation of two years instead of the usual three, after which the permission would lapse, and it would be open to the Council to grant permission for another scheme if one were proposed.

Application 06/2640/03 (The Dukeminster Scheme)

Dukeminster and the Pratt Group are joint applicants. The Pratt Group owns all of the necessary land between the A379 and Rydon Lane, and the applicants are therefore able to commit themselves to constructing a road linking the two. They are prepared to commit themselves to commencing work within a set period (e.g., nine months) after being in a position to do so (i.e., being in possession of a planning permission which is not subject to legal challenge) and to complete the scheme and open it to traffic within another set period (e.g., twelve months) thereafter.

North of the A379, Devon County Council regards all of the land required for this scheme as part of the public highway. This includes some land which is not currently under tarmac, but comprises landscaping between the A379 and Russell Way.

Tesco Stores Ltd is the registered owner of the subsoil under the landscaping and asserts that it has control over this land because it was not properly dedicated or adopted as highway. Tesco objects to the Dukeminster scheme, so if Tesco's assertion were correct, this would prevent the scheme from being implemented. However, if all the necessary land is properly constituted as public highway, the owner of the subsoil cannot obstruct the carrying out of the proposed highway works.

Tesco's argument is essentially that although the land in question is shown as adopted on certain plans, it is not shown as such on any plans which are properly linked to the formal adoption documents. The land is however maintained at public expense (it is one of the areas of highway landscaping maintained by the City Council under contract with the County Council) and the County Council has installed obstacles to prevent unauthorised access, for example by gypsies and travellers.

Counsel's advice has been obtained on this issue, and is set out in Part B of Appendix N.

Further documents have also been traced which demonstrate that the land was properly adopted. The most significant is a Certificate of Practical Completion which makes direct reference to a plan showing the landscaping areas to be adopted as well as the roadways. While Tesco has not yet accepted the position, the documents which are now available demonstrate that the land in question was in fact included in the adoption process.

Tesco has made the additional point that it was not included in the ownership certificate on the Dukeminster application, nor was it notified in its capacity as landowner. Counsel's advice on this issue is also set out in Part B of Appendix N. Having regard to this advice, officers consider that it is in order to determine the application, notwithstanding this observation from Tesco.

Comparison of schemes

The policy rationale for requiring the commitment of all landowners to completion of the road is based on Local Plan policies KP8 and T14.

Policy KP8 makes redevelopment of the Newcourt area a “key proposal” and relevant extracts read as follows: -

“Land in the Newcourt area is proposed for housing and employment development supported by a neighbourhood centre The development should be based on a clear, integrated, urban and landscape design concept for the area and should include: -

(a) A co-ordinated residential layout [.....]

[.....]

(d) Vehicle access to the land north of Old Rydon Lane from the A379 and to the Upper Depot site from Topsham Road and, after completion of the 200th dwelling on the Upper Site, to the whole of the development in this proposal from both the A379 and Topsham Road [... ..].”

Policy T14 is in the Transport chapter and describes as a proposed highway scheme “a road link [... ..] between the lower RNSD housing site on Topsham Road and the upper RNSD housing site [which] will connect with access roads through the Newcourt development area, north of Old Rydon Lane, to the A379”. It goes on to say that land required for the road schemes will be safeguarded.

Given that there can only be one road access to the A379 for the reasons set out in the “Background” section at the beginning of this report, it is important that any road running south from the A379 should facilitate development of all of the land between the A379 and Old Rydon Lane, and provide for a connection to Old Rydon Lane itself as required by policies KP8 and T14.

The Dukeminster scheme would fully satisfy this requirement. The applicants have control of all of the necessary land and are prepared to enter into a section 106 agreement providing for connections both to the Tesco-owned land to the east of the proposed road, and to Old Rydon Lane itself. In fact it will be a requirement of the proposed section 106 agreement that the road is constructed up to the boundary with Old Rydon Lane, but that the boundary hedge is left in place (save for a gap for pedestrian and cycle traffic) until a later date when a connection can be made southwards towards Topsham Road.

Having regard to Counsel’s advice (referred to above), officers consider that the part of the Dukeminster scheme lying to the north of the A379 is capable of being implemented on highway land.

The Spen Hill Scheme is also capable of being implemented to the north of the A379. To the south of the dual carriageway, the scheme is entirely contained within the land owned by Tesco. There is to be a connection to the adjoining Pratt Group land which can be secured by a section 106 agreement. On behalf of Spen Hill it is argued that theirs is the better scheme in terms of the junction with the A379 (see their representations as represented in the sections of

this report covering “Technical highway considerations” and “Landscape/visual impact”). Their argument is essentially that it would be a mistake to reject the better junction proposal on the basis that it does not provide for completion of the entire road link within a specific time. They argue that implementation of the Dukeminster scheme would actually “prejudice the routeing and design of an important highway link that ought to be the best and most appropriate for the substantive development. This will particularly be the case if it is subject to a section 106 requirement that the road must be provided by a specific date without reference to substantive development proposals”. They state that, in the absence of such proposals or a site-specific masterplan, it is not possible to plan the optimum design and routeing of that link.

Officers’ view is that future development options would not be prejudiced, because in practical terms there are very limited options for connecting the A379 with Old Rydon Lane and beyond. At Old Rydon Lane, the point of access needs to be sufficiently close to that for the proposed road southwards to Topsham Road, so as to keep options open as to how to connect to that other new road. At the A379, the centre lines of the Dukeminster and Spen Hill new roads are only approximately 120 metres apart, within an area of allocated land that measures approximately 430 metres from west to east at the narrowest point. Neither road proposal leaves such a large area of development land to either side that it would be problematic to serve that land by means of feeder roads. Accordingly, Spen Hill’s concerns about prejudicing future development are unfounded.

In simple terms, Dukeminster’s scheme fully satisfies this criterion because it provides the entire link to Old Rydon Lane and the applicants will be legally bound to complete it within a specific time. The alternative scenario is that if permission were granted for the Spen Hill Scheme, implementation would be dependent on a commercial agreement being concluded between Tesco and the Pratt Group, whereby the Spen Hill road would be built, enabling the Pratt Group to construct a connection from the end of that road to Old Rydon Lane (subject to receiving planning permission). The commitments being offered are that once agreement has been reached between the Pratt Group and Tesco and construction commenced, the Spen Hill Scheme would then be completed within a specific time, and in its entirety. Also, the permission would lapse if unimplemented within two years (for example because of lack of agreement), leaving the way free for another proposal to be granted permission, such as a revived Dukeminster application if one were to be submitted.

In conclusion, therefore, the Dukeminster scheme is to be preferred when measured against this criterion, because it fully satisfies it. There is no disadvantage in fixing the line of the road now. Even if there were, it would be outweighed by the certainty of having the road built in its entirety within a specific period.

Technical highway considerations, including capacity, safety of junction and grade separated pedestrian and cycle crossing of A379

Comparison of schemes

Both parties were advised of the set of criteria against which the two proposals would be assessed, and compared, in a letter from the City Council’s Planning Solicitor dated 17th November 2006 (see Appendix A)

A Transportation Assessment accompanies each application. Within these assessments each party has tested their proposal against their own set of assumptions on likely traffic generation. The figures used by each party are significantly different. The County Council have concluded that, assessed against the applicants' own individual criteria, each proposal was satisfactory in terms of capacity and functioning on highway safety grounds. However, in order to test each junction against a consistent set of criteria, the County Council adopted their own figures, based on an assessment of likely future traffic generation. These figures lie somewhere between those used by the individual applicants. In addition, in order to be as certain as possible that the junctions will perform satisfactorily, Devon County Council have tested each junction with both applicants' traffic flow figures. (In traffic testing terms this is usually referred to as sensitivity testing.) Assessed against all sets of figures, both proposals either perform satisfactorily in terms of overall capacity and function, or can be made to do so with some relatively minor alterations to junction geometry and/or signal timings at detailed design stage. The minor alterations likely to be required to either scheme are not considered to be significant in terms of their relative merits.

Both parties have objected to each other's schemes on the basis that their proposal represents a fundamentally better scheme and that the Transportation Assessment submitted with the rival scheme is fundamentally flawed. However, as discussed above, the County Council have confirmed that both schemes are fundamentally acceptable in terms of capacity and functioning.

In addition to capacity, other highway criteria related to connections to the existing road network, and provision of an all-movements enabled junction. The Dukeminster application has successfully demonstrated that its proposal caters for all the required movements and connections. However, the Spen Hill proposal does not provide for a link to Old Rydon Lane (see preceding section of report), nor does it provide for all the specified turning movements. In support of their application, Spen Hill have argued that the movements they have not catered for are unnecessary. Whilst the County Council have advised that the absence of these movements does not constitute a reason for refusal in itself, the fact that the alternative Dukeminster scheme does allow for them as originally requested is a point in its favour when comparing the relative merits of the two schemes. As the desirability of catering for all movements was specified in the advice to both parties, Officers do not consider that the applicants for the Spen Hill Scheme, having chosen not to cater for all movements, can now legitimately question the difference between the two schemes in this respect being considered as a distinguishing factor in terms of merit.

Incorporation of grade separated crossing facilities of the A379 for pedestrians and cyclists was another of the specified criteria. For clarification in this report "at grade" refers to provision of actual crossing points of the road itself while "grade separated" relates to provision of routes whereby pedestrians/cyclists are diverted away from road level to a separate crossing above the road on a bridge. Whilst both schemes now include a grade separated crossing in the form of a bridge and associated access ramps/steps, there are still significant differences between the two schemes. The Dukeminster scheme only provides for grade separated crossing with design features incorporated into the junction to actively discourage and preclude attempts by pedestrians and cyclists to cross at grade. Conversely, the Spen Hill proposal provides for at grade crossing facilities in addition to a bridge. The gradient of the Spen Hill bridge and access ramps have now been clarified as 1:20. In order to comply with the relevant provisions of the Disability Discrimination Act for ramps without

landings, they technically need to be shallower (for example 1:20.000001), which could be achieved by a minor amendment.

Whilst each party has criticised the other scheme in terms of the provision made for crossing the A379, citing amongst other issues the relative ease of use, relative priority afforded to pedestrians and motorists, safety and visual impact, it is not considered that either party raises valid fundamental problems in respect of these issues with regard to each other's schemes.

Safety audits of both proposals have been carried out which have demonstrated that **both proposals meet all the design criteria and are considered to be safe.** However, from a purely safety audit angle, the Spen Hill Scheme is preferred due to the straight cross roads nature of the junction and combination of grade and grade separated crossing facilities. However, the traffic signals team countered this view expressing concerns that the waiting times involved with the at grade crossing (just over 2 minutes in the worst case situation) make this option less attractive to potential users and could impact on the efficiency of the junction. The traffic signals team thereby expressed preference for the Dukeminster scheme. Given that both schemes have been judged to be fundamentally safe, it is considered that preference between the two schemes needs to be made on the basis of all the criteria set out in the 17 November letter, notwithstanding the slight difference in preference arising from the different perspectives of the Safety Audit and Traffic Signals Teams.

In terms of Strategic Network benefits, the route from the A379 is intended to be a complete connection but is not intended to serve as a strategic through link to Topsham Road. In this respect the Dukeminster proposal offers a degree of benefit as the less direct nature of the junction proposed will be less attractive to those seeking a through route. Conversely all traffic heading in a west/south-westerly direction from this junction will have to use the new road due to the non-inclusion of a right turn movement in the Spen Hill junction proposal.

If considered in isolation, each of the two junctions is capable of being made to perform in a safe and satisfactory manner. However only one can be built and, on balance, the Dukeminster proposals are favoured because they meet all of the technical highways criteria clearly set out to both applicants throughout the process, including the ability to complete the link to Old Rydon Lane (see spreadsheet at Appendix I).

Release of further potential development land

Comparison of schemes

Both proposals would facilitate the closure of the existing slip and loop road, giving access to Russell Way from the westbound carriageway of the A379, by providing a right turn facility from the westbound carriageway of the A379 into Russell Way. Therefore both proposals keep open the option of the subsequent release of land within the loop for development, should the decision to close the slip road and release this land for development subsequently be considered desirable. (The merits of closing the slip road and loop would need to be assessed carefully by Devon County Council and the Highways Agency.)

Consequently this issue is considered **neutral** in terms of judging the relative merits of the two schemes.

Archaeological Impact

Application 06/1673/03 (The Spen Hill Scheme)

A Geophysical Survey Report that outlines the geology and soils of the site, its history/archaeological potential, and the methodology adopted for the study accompanies the application.

The report concludes as follows: -

“Weak evidence for archaeological activity has been identified in the form of positive linear anomalies representing cut features. However these linear anomalies are somewhat disjointed and represent no structured evidence of settlement activity. A large service with associated magnetic disturbance runs across the west of the survey area and may obscure any faint archaeological features in close proximity. No discernable features can be identified within the slip road area; this is likely to be caused by modern landscaping. Agricultural marks can be seen throughout the main section of the survey area with three possible previous field boundaries.”

Application 06/2640/03 (The Dukeminster Scheme)

An Archaeological Evaluation that outlines the planning and archaeological background of the site, the methodology of the investigation, its results and finds accompanies the application.

The report examines the finds associated with the various trenches that were dug on site as part of the study. A number of sherds of pottery were found, including some of prehistoric and medieval/post-medieval origin, along with various pieces of flint and stone. The report also refers to the presence of enclosures on the site relating to historical uses of the land.

Comparison of schemes

In respect of the Spen Hill Scheme, the report identifies no significant remains. Less significant remains, including former field boundaries, and potential smaller scattered features would require recording and this could be secured by imposition of an appropriate condition on any consent. With regard to the Dukeminster Scheme, remains identified are not of sufficient significance to merit preservation in situ and are not therefore a constraint on the development. Their recording could also be secured by an appropriate condition.

Therefore the archaeological issues are **neutral** with respect to both submitted road schemes, and **do not affect the relative desirability of the two schemes.**

Landscape/Visual Impact

Application 06/1673/03 (The Spen Hill Scheme)

A Landscape Supporting Statement accompanies the application. The Statement considers landscape related policy, the site and its setting, explanation of the proposal, and the nature of change proposed. It includes plans showing the vegetation to be removed and a Landscape Master Plan.

Application 06/2640/03 (The Dukeminster Scheme)

A Landscape and Visual Assessment of the proposal accompanies the application and includes various plans including a landscape strategy and impacts/mitigation plan.

A summary of both documents and their conclusions is attached as Appendix E.

Comparison of schemes

Both schemes will inevitably have an impact upon the landscape and visual character of the area given the nature of providing a new junction and road. The issue is not that there will be an impact, but the level of impact weighed against the need to release land allocated for development, and the scope for mitigation measures to assimilate the new junction and road into its surroundings.

In respect of both schemes, the greatest visual impact will arise from the formation of the new junctions themselves onto the A379, the resultant vegetation loss, and the proposed bridges and access ramps, which will of necessity, be elevated structures.

The Dukeminster Scheme involves an extensive retaining wall alongside the A379 opposite the junction with Russell Way due to alterations to the existing carriageway of the A379. Although this will represent a significant visual change along this stretch of road, the applicant has confirmed a willingness to utilise a high quality material for its construction so as to make it as attractive a feature as possible. Details of the retaining wall design and finish would be covered by a condition attached to any consent. In this context, the need for a retaining wall in the Dukeminster scheme is not considered to amount to a significant distinguishing factor between the visual impacts of the two schemes.

Both new junctions on the south side of the A379 will involve significant engineering works and resultant loss of vegetation. However, both schemes also advocate significant replacement planting around the junctions, which would in time assimilate the junctions into the surroundings and minimise the inevitable changes that are consequent with the provision of a new junction. Each scheme has some advantages and disadvantages over the other and it is difficult to distinguish between the two schemes on grounds of visual impact. Based on the submitted information, if the Dukeminster Scheme incorporated the same level of replacement planting along the southern side of the A379 as shown on the Spen Hill Scheme then it would be marginally preferable in terms of visual impact. However, in the context of the need to deliver the new road and subsequent development of allocated land, the visual impact of two schemes as submitted is not considered to be a significant distinguishing feature.

Both of the new bridges and associated access ramps would be visually prominent features in the landscape. However, given the context of the locality and the existence of other bridges in the area, it is considered that, provided a bridge of high design quality is provided, the visual impact of both proposals, whilst significant, would be acceptable in this respect. Both applications lack sufficient detail in relation to the design and quality of the proposed bridge, but this could be dealt with by an appropriate condition, requiring detailed plans of the bridge to be submitted and approved prior to commencement.

Impact on wildlife and nature interests

The A379 and embankments are identified as Sites of Local Interest for Nature Conservation, and land adjoining the existing Russell Way roundabout as Open space, in the Adopted Local Plan. Wildlife impact can extend well beyond any specific development site and therefore the wider context of both proposals needs to be assessed, as well as the immediate localised impact.

Application 06/1673/03 (The Spen Hill Scheme)

The application is accompanied by an Ecological Appraisal comprising a study of the ecology and nature conservation interest of land adjacent to the A379.

Application 06/2640/03 (The Dukeminster Scheme)

An Ecological Assessment accompanies the application.

A summary of both documents and their conclusions is attached as Appendix F.

Comparison of schemes

Policy LS4 does not preclude development proposals that would harm Sites of Local Interest for Nature Conservation (SLINC) but does set criteria as to when such proposals can be approved. These include situations when the need for the development is sufficient to outweigh nature conservation interests and the extent of any damaging impact is kept to a minimum and appropriate mitigation and compensatory measures are implemented. It is considered that the need for this road to release the development of allocated housing and employment land is one such case. Therefore the issue is whether or not either or both of these proposals appropriately minimises and mitigates their adverse impact.

The main impacts of both schemes in terms of wildlife and nature interests relate to:-

- a) Loss of habitat (primarily in the form of the embankments identified as sites of Local Interest for Nature Conservation in the Local Plan); and
- b) Increased difficulty in movement of wildlife from Ludwell Valley Park to land east of the City and vice versa.

Both applications acknowledge the resultant loss of habitat but seek to address this and minimise the impact by mitigation measures. In respect of both applications, the mitigation measures are considered appropriate, although it has to be acknowledged that the measures will take some time to establish and replace the quality of the habitat lost.

The Dukeminster Scheme acknowledges potential impact on badgers in the locality and provides for mitigation and protective measures including a replacement artificial sett, wildlife tunnels and fencing to minimise the impact. Whilst the Spen Hill Scheme does not directly identify any impact on badgers arising from their proposals, it also acknowledges the need to provide wildlife tunnels on either side of the A379. In respect of both applications these measures would need to be secured by appropriate conditions if consent was granted.

Both proposals provide for a new road running north/south across the existing fields on the south side of the A379. This is a necessity to open up the allocated development land. The road will inevitably act to some degree as a barrier to the movement of wildlife between Ludwell Valley and the land to the east of the City. However, the road itself would be a relatively narrow barrier and the challenge for the future development of the employment and housing land is to ensure that the detailed layouts still provide appropriate opportunities for wildlife to use the site as a corridor.

Further access points from the allocated land onto the new road have to be situated far enough away from the new junction so as not to compromise its functioning. Therefore, while the roundabouts shown on both schemes are close to the divide between the allocated employment and housing land it is not considered that this will preclude the establishment of an acceptable landscape/biodiversity buffer and wildlife corridor. It is acknowledged that this will be a design challenge to be addressed in connection with subsequent detailed development proposals for the land in question.

Both proposals have therefore acknowledged the unavoidable impacts of creating a new junction and road in this location and proposed mitigation measures to minimise any impact. In the light of this it is not considered that there is any significant distinguishing impact in terms of wildlife and nature interests between the two applications.

Impact on Air Quality

Application 06/1673/03 (The Spen Hill Scheme)

The application is accompanied by an Air Quality Assessment in respect of the impacts arising from the development of the proposed road connecting to the A379. The report states that the site does not currently lie within an identified Air Quality Management Area. The report assesses the potential impacts of the proposed road on local air quality during both construction and operational phases. It identifies the type, source and significance of potential impacts and measures that should be employed to minimise these impacts.

Application 06/2640/03 (The Dukeminster Scheme)

The application is accompanied by an Air Quality Assessment of the potential impact of the proposed link road between the A379 and Old Rydon Lane. The report assesses the potential impacts of the proposed road on air quality during both construction and operational phases. It identifies the type, source and significance of potential impacts and measures that should be employed to minimise these impacts

A summary of both documents and their conclusions is attached as Appendix G.

Comparison of schemes

Both applications relate to the provision of a new road that would ultimately serve the same level of new development and in this context there would appear to be little to choose between them in terms of Air Quality impact. It is however necessary to look at the potential for mitigation measures, such as layout of the road, proposed speed limit, width and planting of verges etc, to minimise any impact. It is considered that both applications are capable of

incorporating such features. These measures would also help to minimise the impact of the road on noise levels at nearby properties. Consequently this issue is considered to be **neutral** in terms of the relative merits of the two schemes.

Impact on Flood Risk

Both applications are accompanied by reports covering this issue. **A brief summary of both reports and their conclusions is attached as Appendix H.**

Comparison of schemes

The Environment Agency have confirmed that they have no objection to either scheme provided surface water associated with the development is dealt with in accordance with the approach set out in the respective Flood Risk Assessments.

In the light of the advice from the Environment Agency, it is not considered that there is any fundamental difference between the two schemes in terms of their potential impact on flood risk in the locality. Therefore the flood risk issues are **neutral** with respect to both submitted road schemes, and do not affect the relative merits of the two schemes.

Southern Area Working Party

The Spen Hill, and earlier Dukeminster/Pratt Group applications were jointly reported to Members of the Southern Area Working Party and local Ward members on 22 November 2006. Officers outlined the Local Plan background and planning history relevant to the applications. Officers also explained the intended procedure for determination of the applications, i.e., that they would be determined by the Planning Committee, with a joint report prepared covering both applications, and assessing them against a common pre-determined set of criteria. Members noted and agreed with proposed method of determining the applications.

The current Dukeminster/Pratt Group application was reported to Members of the Southern Area Working Party on the 31 January 2007. Members were advised this application would be considered at the same time as the Spen Hill proposal instead of the earlier Dukeminster/Pratt Group proposal. Members noted this update.

Site Inspection Party

Comments to be reported.

Conclusions

As previously stated, both the County and City Councils have tried to encourage the two parties involved to cooperate and produce a single scheme to provide a new junction and road and thereby facilitate release of allocated development land south of the A379. Unfortunately these attempts have been unsuccessful and as a consequence the Council is faced with having to choose between two competing applications. As explained earlier in the report, legal advice has confirmed that in determining each of these applications the existence of the other proposal is a material consideration. Following discussion with the County Council a clear set

of criteria against which the two proposals would be assessed, and compared, was compiled and set out to both applicants in letters (**Refer to Appendix A**).

Each party has stated that, assessed against all material considerations, their proposal represents a more satisfactory solution than the competing scheme which they consider to have significant deficiencies. These comments have been considered in the assessment of the relative merits of each scheme against the criteria set out. Having worked through these criteria it is apparent that the main distinguishing differences between the two proposals relate to deliverability and highways considerations. On the basis that the Dukeminster Scheme meets all the set criteria, and the Spen Hill Scheme does not, there is a clear preference for the Dukeminster Scheme.

It has to be pointed out that in reaching this conclusion, there is no inference that the Spen Hill Scheme is, when considered in isolation, unacceptable. In itself, it is not contrary to Policy KP8(d), although it is less effective at securing its objectives than the Dukeminster Scheme. Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that the application must be determined in accordance with the Development Plan unless material considerations indicate otherwise; therefore on its own the Spen Hill Scheme would not warrant refusal. However, the existence of the Dukeminster Scheme, which better secures the objectives of Policy KP8(d), is a material consideration. To permit more than one of these schemes would have an unacceptable adverse impact on road safety and conflict unacceptably with the function of the A379, contrary to Devon Structure Plan policy TR10.

The Spen Hill Scheme is therefore recommended for refusal, and the Dukeminster Scheme is recommended for approval subject to conditions and a Section 106 Agreement. **The draft heads of terms for a legal agreement in respect of both applications are set out in Appendix J.**

Recommendation

Subject to final assessment of all relevant information, including any received after preparation of this report, and to formal confirmation of withdrawal of the Highways Agency's Holding Direction in respect of the Dukeminster Scheme:-

APPROVE application 06/2640/03 (The Dukeminster Scheme) subject to completion of a section 106 agreement, as set out in Appendix J to this report, and subject to the following conditions: -

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

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

2) The development hereby permitted shall not be carried out otherwise than in strict accordance with the submitted details received by the Local Planning Authority on *date (dwg. no(s).)*, as modified by other conditions of this consent.

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

3) Prior to the commencement of development 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, and approved in writing by, the Local Planning Authority. The said 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.

4) Prior to the commencement of the development hereby approved detailed plans of the proposed design of the bridge and associated access ramps, including materials, and the timeframe for its construction and opening for use, shall be submitted to, and be approved in writing by, the Local Planning Authority. Thereafter the bridge and ramps shall be constructed in accordance with the approved details and timeframe unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of the visual amenity of the area and to ensure that the facility is provided in accordance with an agreed timeframe.

5) Prior to the commencement of the development hereby approved full details of the design, location and specification of all measures to mitigate the impact of the development upon the local badger population shall be submitted to, and be approved in writing by, the Local Planning Authority. The details shall include a timeframe for implementation of all proposed works comprised in the mitigation scheme. Thereafter the development shall be carried out fully in accordance with the details approved pursuant to this condition.

Reason: To ensure that appropriate measures are put in place to mitigate the impact of the development upon a protected species.

6) Prior to the commencement of the development hereby approved details of a full lighting scheme for the road, footpaths and bridge shall be submitted to, and be approved in writing by, the Local Planning Authority.

Reason: To ensure that details of the lighting of the development are acceptable in terms of visual and amenity impact upon the locality.

7) 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 5837:2005 - 'Trees in Relation to Construction'. The developer shall maintain such fences to the satisfaction of the Local Planning Authority until all development the subject of this permission is completed. The level of the land within the fenced areas shall not be altered without the prior written consent of the Local Planning Authority. No materials shall be stored within the fenced area, nor shall trenches for service runs or any other excavations take place within the fenced area except by written permission of the Local Planning Authority.

Where such permission is granted, soil shall be removed manually, without powered equipment.

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

8) Prior to the commencement of the development hereby approved full details of the proposed retaining wall, including its height and materials, shall be submitted to, and be approved in writing by, the Local Planning Authority.

Reason: In the interests of the visual amenity of the locality.

9) The development hereby approved shall be completed strictly in accordance with strategy set out in the submitted Flood Risk Assessment, particularly in respect of the management of surface water associated with the development in accordance with the principles of Sustainable Urban Drainage.

Reason: To ensure that the proposed development does not give rise to any undue increase in the risk of flooding in the locality.

10) Prior to commencement of development a written scheme of archaeological work shall be submitted to, and be approved in writing by, the Local Planning Authority. This scheme shall include on-site work, and off-site work such as the analysis, publication, and archiving of the results. All works shall be carried out and completed as approved, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the appropriate identification, recording and publication of archaeological and historic remains affected by the development.

11) Prior to commencement of development details of the proposed hours of construction work, construction access and location, size and design of any compound associated with implementation of the proposal, shall be submitted to, and be approved in writing by, the Local Planning Authority. Thereafter the development shall be carried out strictly in accordance with the approved details.

Reason: To ensure that appropriate consideration is given to the potential impact of construction works upon the visual amenity of the area and the residential amenity of the occupants of properties within the vicinity of the site.

12) Prior to commencement of development a full construction programme, including proposed hours of working and road closures shall be submitted to, and be approved in writing by, the Local Planning Authority. Thereafter the development shall be carried out strictly in accordance with the approved details.

Reason: To ensure that potential impact on the highway network and the amenities of nearby residents during construction process is minimised.

Reason for approval (LP indicates policies in the Exeter Local Plan; SP indicates policies in the Devon Structure Plan)

The proposals, provided that they are implemented in accordance with the conditions attached to this permission and the section 106 agreement affecting the application site: -

1. Provide for connections to the existing road network, including to Old Rydon Lane, in accordance with LP policies KP8 (d) and T14;
2. Also in accordance with policy KP8, provide for connections to all land allocated for employment and housing by policy KP8 between A379 and Old Rydon Lane;
3. Provide a grade-separated pedestrian and cycle crossing of the A379, usable by persons with disabilities in accordance with LP policies KP8 (f), T3 and T5, and SP policies TR5 and TR7;
4. Can provide the commitment (through a planning obligation) of all landowners, and thereby ensure that the roads are completed in accordance with LP policies KP8 and T14 and open to traffic within a specific timescale;
5. Provide sufficient junction capacity in accordance with SP policy TR10;
6. Will not impact unacceptably on the landscape, thereby being consistent with SP policy CO6 and LP policies E1.1 and paragraph 3.15, and DG1;
7. Are demonstrably safe, thereby complying with SP policies TR5, TR7 and TR10;
8. Have no adverse impact on the strategic network thereby complying with SP policy TR10;
9. Have the potential to release land through the redundancy of the existing loop from the A379 westbound off-slip to Russell Way;
10. Will not impact unacceptably on archaeological remains, thereby complying with SP policy CO8 and LP policy C5;
11. Will not impact unacceptably on wildlife and nature, thereby complying with SP policy CO10 and LP policy LS4 (b);
12. Will not impact unacceptably on air quality, thereby complying with LP policy EN3;
13. Will not result in unacceptable flood risk, thereby complying with LP policy EN4; and
14. In the case of reasons 1 and 4, perform better against the stated criteria than the alternative proposals in application 06/1673/03.

REFUSE application 06/1673/03 (the Spen Hill Scheme) for the following reasons: -

The proposals (“the Spen Hill Scheme”), together with those proposed in application 06/2640/03 (“the Dukeminster Scheme”), comprise competing schemes for signalised junctions on the A379, connecting to Russell Way to the north and land to the south, which is allocated for development by policy KP8 of the Exeter Local Plan First Review.

It would be physically impossible to construct both schemes, and, in any event, two accesses to the south of the A379 dual carriageway would have an unacceptable adverse impact on road safety and conflict unacceptably with the function of the A379, contrary to Devon Structure Plan policy TR10.

Although the Spen Hill Scheme does not in itself conflict with the Development Plan, material considerations indicate that it should be refused. Those material considerations are the existence of the competing Dukeminster Scheme which better secures the objectives of Development Plan policies because: -

- (a) the Spen Hill Scheme does not include a road link to Old Rydon Lane, thus fulfilling fewer of the objectives of Local Plan policy KP8 (d) than the Dukeminster Scheme; and
- (b) no commitment can be provided through a planning obligation attached to the application for the Spen Hill Scheme that the roads will be completed and open to traffic within a specific timescale.

Although it would be possible (through a condition and/or planning obligation) to prevent commencement of the Spen Hill Scheme until construction has commenced of a road link to Old Rydon Lane, this would not secure commencement of construction within a specific timescale, only that permission for the Spen Hill Scheme would lapse if it were not implemented in accordance with the condition imposed pursuant to section 91 of the Town and Country Planning Act 1990. The Dukeminster Scheme is therefore more effective at securing the objective of policy KP8 (d) and the other development set out in policy KP8 within the Local Plan period (to 2011), because the Dukeminster Scheme can achieve that objective within a specific timescale, whereas the Spen Hill Scheme cannot do so.

In particular, the housing proposed by policy KP8 will make a major contribution to overall housing provision in Exeter in accordance with Structure Plan policies ST11 and ST17, and Local Plan policy H3. The road connection to the A379 is essential for delivery of this housing because of the unsuitability of other access routes. Failure to provide the road connection to enable the housing development within the Local Plan period would result in unacceptable pressure for housing development on less suitable unallocated sites.

RICHARD SHORT
HEAD OF PLANNING SERVICES

ECONOMY AND DEVELOPMENT DIRECTORATE

Local Government (Access to Information) Act 1985 (as amended)
Background papers used in compiling this report:

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