

**PLANNING COMMITTEE**  
**(HELD AS A VIRTUAL MEETING)**

Monday 12 October 2020

Present:-

Councillors Williams, Bialyk, Branston, Foale, Ghusain, Hannaford, Harvey, Mrs Henson, Mitchell, M, Morse, Sparkes, Sutton and Wright

Also Present

Director City Development, Housing & Supporting People, Principal Project Manager (Development) (MH), Principal Project Manager (DC), Democratic Services Officer (HB) and Democratic Services Officer (MD)

73

**CHAIR**

Councillor Ruth Williams, the Deputy Chair, chaired the meeting.

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**MINUTES**

The minutes of the meetings held on 7 and 17 September 2020 were taken as read and approved as correct, for signing by the Chair at the earliest possible convenience.

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**DECLARATIONS OF INTEREST**

No declarations of interest were made by Members.

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**PLANNING APPLICATION NO. 20/0321/FUL - LAND AT BROOM PARK NURSERIES AND FIVE ACRES, EXETER ROAD, TOPSHAM**

The Principal Project Manager (Development) (MH) presented the application for the demolition of existing buildings and proposed residential development of 64 no. residential units, including affordable housing, plus open space, landscaping, car parking, cycle spaces, drainage, vehicular access, internal roads, provision of link road and all associated infrastructure and development.

The Principal Project Manager (Development) referred to the key issues of affordable housing, scale, design and impact on character and appearance, sustainable construction, economic benefits, flood risk, impact on local highways and parking, heritage assets, trees and biodiversity and CIL and Section 106 contributions. He highlighted:-

- the development was CIL liable and a Section 106 Agreement would be required to secure the affordable housing provision, open space including provision of equipped play area details, access and maintenance and a financial contribution towards enhanced GP facilities;
- the Education Authority had highlighted the additional demand for early years, primary and secondary places arising from the development;
- absence of a five year land supply;
- paragraph 11 of the National Planning Policy Framework (NPPF) setting out that permission should be granted for sustainable development unless specific

- policies in the NPPF indicate otherwise;
- proposal not considered to be of any significant harm to neighbouring residential amenity;
- highway related Section 106 contributions as set out in the formal consultation response; and
- the development was considered acceptable in terms of its design/amenity and transportation impacts, and sustainable in terms of its location.

The Principal Project Manager (Development) reported the receipt of two further letters of objection. One was from the Golf Club referring to the changing circumstances along the boundary in respect of an existing dwelling and bed and breakfast facility and stating that the reference to the siting of the golf driving range was not of relevance in relation to golf balls leaving. The other was the letter from the Topsham Society already circulated to Committee Members and which the Principal project Manager summarised.

He responded as follows to Members' queries:-

- notwithstanding the reference in correspondence from the Topsham Society to provide 100% affordable housing, if development was to be supported, Council policy was for 35% provision where possible;
- the two parcels of open space provision fronting Exeter Road would have appropriate boundary treatment to provide a greater impression of greenage along the frontage, complimenting that of the neighbouring development;
- 20 out of the 61 homes would be affordable and slightly under the policy complaint level in order to achieve the open space referred to above;
- staggered barriers would be provided within the cycleway/footway;
- two affordable flat units would be wheelchair accessible, that is 5%, although wheelchair accessible provision was not normally a requirement for non-affordable homes;
- further detail on the number of electric charging points would be obtained; and
- open market provision was predominantly three and four bed properties.

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

- speaking on behalf of the Topsham Society which has a remit to preserve the character of the town and improve its quality and that of the environment. The City Council consults the Society on developments in the town;
- the site is located in the Topsham Gap which is protected by Policy LS1 which seeks to protect the setting of the town and to prevent the coalescence of Topsham with Exeter;
- Exeter City Council Policy has always been to protect the Gap between Exeter and Topsham and Topsham has taken its fair share of housing;
- the Society had objected to other housing developments which has further impinged on the Gap and an Inspector, in allowing an appeal for one development, stated that that particular development should not set a precedent for the erosion of the Gap. This development ignores that statement and effectively eradicates the Gap;
- the access road leads through to the north of the site, even though there is no planning permission for the land to the north;
- the proposal is of poor design with a mechanical layout and lacking in creativity;
- Exeter Road has been characterised by a green corridor linking Countess Wear with Topsham and its loss is a further blight on the area;
- Topsham suffers from a chronic shortage of affordable housing. If more housing occurs in the Gap there should be a strong emphasis on affordable

housing; and

- it is likely that the 61 individual objections may also have been included in the 300 representations from Topsham Society

Will Gannon spoke against the application. He raised the following points:-

- the Planning Committee has, in the past, supported the Club as a valued sporting facility in the City and, in respect of the Seabrook Orchards development, which is adjacent to the 11th and 12th holes, imposed a condition on the consent which puts the onus on the developer to mitigate the effects of the housing development on the golf course;
- the Club requests that this same condition be applied and have offered the developer the opportunity to erect the safety netting recommended by the Club's architect on its land at Topsham, to avoid the developer losing any dwellings;
- the Topsham Golf Academy has operated for two years and, during that time, there has been close contact with neighbours, including the residents in the bungalows on the Broom Park Nurseries site with safety netting provided in two phases;
- this application will totally change the use of a largely non-residential site, containing a single bungalow, to a residential development for 61 dwellings which will have a huge effect on the safety implications for the Academy; and
- a deferral is suggested to encourage the applicant to engage in respect of the safety mitigation measures, or attach the condition previously imposed. An alternative would be to add a further clause to the Section 106 Agreement to provide safety mitigation measures on land owned by the Club

He responded as follows to Members' queries:-

- oppose the design of the development and the fact that it does not take into account health and safety issues regarding the relationship between the housing and the golf club and the need for appropriate safety measures. Do not object to the development in principle; and
- Heritage Homes have undertaken to incorporate safety netting on the golf club land but there has been no confirmation of this.

David Lovell spoke in support of the application. He raised the following points:-

- Heritage Homes are a local house-building company with a track record for delivering high quality and energy efficient sustainable homes providing employment in Exeter for in excess of 200 local tradesmen and women;
- aware of the sensitivities of this site to a limited number of people living in Topsham;
- the development completed by Heritage Homes opposite at The Chase provides highly sustainable Zero Carbon homes and won the UK National Development of the Year Award from the Local Authority Building Control. This application will also be built to high energy efficiency and sustainability standards, but with added sustainability credentials such as a stand for 10 Electric Co-Bikes at the entrance plus parking for two electric Co-Cars, the first part of a proposed strategic cycleway to connect Exeter Road with Newcourt Road and beyond to the Clyst Road development area, as well as cabling in each home for an electric car and battery storage fed from solar panels;
- there has been careful discussions with officers to improve the proposals and provide extra open space at the front of the site to link up with open space in adjoining developments;

- in order that other land to the north and along Newcourt Road does not become landlocked and can be brought forward in the future to provide more homes which would assist with the five year land supply, a section of land within this proposal has also been reserved for a future sustainable connection to Newcourt Road including a 3.5 metre. wide cycleway; and
- the proposal offers a substantial number of Affordable Social Rented Homes as well as Shared Equity Homes and a large cash contribution towards the provision of additional primary school places and local GP Services.

He responded as follows to Members' queries:-

- speaking as the property developer and applicant;
- majority of affordable homes are for social rent provided to housing associations who rent out to individuals on the Council's housing list with a limited number of shared equity homes enabling young first time buyers to get on the housing ladder and can buy at 80% of the market price;
- the escape of anything from one land to another is the responsibility of the landowner from where the particular item originates; and
- the phasing plan shows the proposed netting on the golf club land on the boundary with Phase 4, the last part to be developed on this site and which is adjacent to the driving range. Golf balls are already escaping onto the land of residents and will not be a new problem created by this development. The line of fence has been agreed with the club when the development reaches Phase 4 but was not necessary for the first three phases. Heritage Homes are prepared to erect the nets with the matter of payment subject to further discussion.

Members expressed the following views:-

- note concerns of the Topsham Society but acknowledge that it is difficult to oppose on grounds of the Topsham Gap issue following a number of appeal decisions and to make the same arguments;
- the education provision should be timetabled to dovetail with the housing development as it proceeds;
- welcome provision of local facilities including the contribution to a GP surgery; and
- there is a health and safety requirement to ensure that the necessary fencing is provided to the requisite standard as has been discussed by the applicant and the golf club in order to prevent damage to neighbouring houses and occupants with such a conclusion to be reached in consultation with the planning officers, subject to prior consultation with the Chair.

The Principal Project Manager (Development) stated that:-

- contributions towards local facilities included the GP's but not a dentist or a veterinary surgery;
- the application differed from the previous RNSD and Seabrook developments in the area, the land use for which were naval stores depot and agricultural land respectively, whereas Broom Park related to land already in residential occupation because of its occupation by a residential development and a bed and breakfast facility;
- the planning authority was prepared to discuss further with the applicant the issue of safety netting and that an additional condition in this respect would need to meet the relevant tests for the imposition of conditions on planning permissions.

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

Councillor Bialyk moved and Councillor Sparkes seconded an amendment to add a further condition to secure, on health and safety grounds, the provision of suitable netting on golf driving range land on the boundary of the housing development which was voted on and carried.

The recommendation, as amended, was moved and seconded and carried.

**RESOLVED** that:-

(1) subject to:-

(a) the completion of a Section 106 Agreement under the Town and Country Planning Act 1990 to secure:-

- affordable housing;
- open space provision including equipped children's play area, maintenance and public access in perpetuity;
- education contributions – Early Years £14,500, Primary £281,546 and Secondary £206,407;
- contribution of £26,838 towards enhanced GP facilities/provision in the locality;
- £500 per dwelling towards sustainable travel measures (Travel Planning);
- up to £10,000 Traffic Regulation Order contributions relating to the proposed raised tables, car club and electric cycle parking spaces; and
- all Section 106 contributions should be index linked from the date of resolution; and

(b) an additional condition to secure, on health and safety grounds, the provision of suitable netting on the golf driving range land on the boundary of the housing development, the Assistant Service Lead City Development being authorised to negotiate with both the applicant and the Golf Club to secure such provision, subject to prior consultation with the Chair of the Committee.

the Assistant Service Lead City Development be authorised to **APPROVE** planning permission for the demolition of existing buildings and proposed residential development of 64 no. residential units, including affordable housing, plus open space, landscaping, car parking, cycle spaces, drainage, vehicular access, internal roads, provision of link road and all associated infrastructure and development, subject also 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 and 92 of the Town and Country Planning Act 1990.

2) The development hereby permitted shall not be carried out otherwise than in strict accordance with the submitted details received by the Local

Planning Authority on 4th March, 27th, 28th and 29th July, and 15th September 2020 (including dwg. nos. 1415/P100 Rev G, BRM-010-Landscape Rev 5.2, BRM-010-Phasing Rev 5.2, 1415/P103 Rev C, 1415/P104 Rev D, 1415/P105 Rev D, 1415/P120 Rev C, 1415/P121 Rev C, SK008, 1415/Dn-3 Rev C, 1415/Dn-4 Rev C, 1415/T-1 Rev A, 1415/Ap-1 Rev C, 1415/Bm-1 Rev B, 1415/Ap-2 Rev C, 1415/But-3 Rev A, 1415/T-2 Rev A, 1415/But-4 Rev A, 1415/Bm-2 Rev B, 1415/Gr-1 Rev C, 1415/Gr-2 Rev B, 1415/FI-1 Rev A, 1415/Gr-3 Rev B, 1415/FI-2 Rev A, 1415/Hr-1 Rev A, 1415/Hc-2 Rev B, 1415/Hr-2 Rev A, 1415/Hc-1 Rev B, 1415/Kn-1 Rev C, 1415/Slt-1 Rev A, 1415/Pt-1 Rev C, 1415/Pt-2 Rev C, 1415/Slt-2 Rev A, 1415/Kn-2 Rev C, 1415/T5, and 1415/T6) as modified by other conditions of this consent.

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

- 3) **Pre commencement condition:** No development shall take place on site until a full investigation of the site has taken place to determine the extent of, and risk posed by, any contamination of the land and the results, together with any remedial works necessary, have been agreed in writing by the Local Planning Authority. The buildings shall not be occupied until the approved remedial works have been implemented and a remediation statement submitted to the Local Planning Authority detailing what contamination has been found and how it has been dealt with together with confirmation that no unacceptable risks remain.
- Reason for pre-commencement condition:** In the interests of the amenity of the occupants of the buildings hereby approved. This information is required before development commences to ensure that any remedial works are properly considered and addressed at the appropriate stage.
- 4) **Pre-commencement condition:** - No development hereby permitted shall commence until the following information has been submitted to and approved in writing by the Local Planning Authority:
- (a) A detailed drainage design based upon the Flood Risk Assessment and Drainage Strategy (Ref.19030; Rev. A; dated 23rd July 2020).
  - (b) Detailed proposals for the management of surface water and silt runoff from the site during construction of the development hereby permitted.
  - (c) Proposals for the adoption and maintenance of the permanent surface water drainage system.
  - (d) A plan indicating how exceedance flows will be safely managed at the site.
  - (e) A detailed assessment of the condition and capacity of any existing surface water drainage system/watercourse/culvert that will be affected by the proposals. The assessment should identify and commit to, any repair and/or improvement works to secure the proper function of the surface water drainage receptor.
  - (f) Evidence there is agreement in principle from SWW/landowner/DCC Highways to connect into their system
  - (g) An assessment of the potential impacts of groundwater on the surface water drainage system, such as 'floatation'. The assessment should also include the construction of the features.
- No building hereby permitted shall be occupied until the works have been approved and implemented in accordance with the details under (a) - (g) above.
- Reason for pre-commencement condition:** The above conditions are required to ensure the proposed surface water drainage system will operate effectively and will not cause an increase in flood risk either on the site, adjacent land or downstream in line with SuDS for Devon Guidance (2017)

and national policies, including NPPF and PPG. The conditions should be pre-commencement since it is essential that the proposed surface water drainage system is shown to be feasible before works begin to avoid redesign / unnecessary delays during construction when site layout is fixed.

- 5) **Pre-commencement condition:** A Construction Environmental Management Plan shall be submitted to and agreed in writing by the Local Planning Authority prior to the commencement of development on site and adhered to during the construction period. This should include details of monitoring and mitigation measures to control the environmental impact of the development during the construction and demolition phases, including site traffic and traffic routing, the effects of piling and emissions of noise and dust. The CEMPs should contain a procedure for handling and investigating complaints as well as provision for regular meetings with appropriate representatives from the Local Authorities during the development works, in order to discuss forthcoming work and its environmental impact.  
**Reason for pre-commencement condition:** In the interest of the environment of the site and surrounding areas. This information is required before development commences to ensure that the impacts of the development works are properly considered and addressed at the earliest possible stage.
- 6) **Pre-commencement condition:** Prior to the commencement of the development hereby permitted, a Waste Audit Statement shall be submitted to and approved in writing by the Local Planning Authority. This statement shall include all information outlined in the waste audit template provided in Devon County Council's Waste Management and Infrastructure Supplementary Planning Document. The development shall be carried out in accordance with the approved statement.  
**Reason for pre-commencement condition:** To minimise the amount of waste produced and promote sustainable methods of waste management in accordance with Policy W4 of the Devon Waste Plan and the Waste Management and Infrastructure Supplementary Planning Document. These details are required pre-commencement as specified to ensure that building operations are carried out in a sustainable manner.
- 7) **Pre-commencement condition:** No materials shall be brought onto the site or any development commenced, until the developer has erected tree protective fencing around all trees or shrubs to be retained, in accordance with a plan that shall previously have been submitted to and approved in writing by the Local Planning Authority. This plan shall be produced in accordance with BS 5837:2012 - Trees in Relation to Design, demolition and construction. The developer shall maintain such fences to the satisfaction of the Local Planning Authority until all development the subject of this permission is completed. The level of the land within the fenced areas shall not be altered without the prior written consent of the Local Planning Authority. No materials shall be stored within the fenced area, nor shall trenches for service runs or any other excavations take place within the fenced area except by written permission of the Local Planning Authority. Where such permission is granted, soil shall be removed manually, without powered equipment.  
**Reason for pre-commencement condition** - To ensure the protection of the trees during the carrying out of the development. This information is required before development commences to protect trees during all stages of the construction process.

- 8) **Pre-commencement condition:** Before commencement of construction of the development hereby permitted, the applicant shall submit a SAP calculation which demonstrates that a 19% reduction in CO2 emissions over that necessary to meet the requirements of the 2013 Building Regulations can be achieved. The measures necessary to achieve this CO2 saving shall thereafter be implemented on site and within 3 months of practical completion of any dwelling the developer will submit a report to the LPA from a suitably qualified consultant to demonstrate compliance with this condition.  
**Reason for Pre-commencement condition:** In the interests of sustainable development and to ensure that the development accords with Core Strategy Policy CP15.
- 9) **Pre-commencement condition:** Prior to the commencement of development a Biodiversity Mitigation and Enhancement Plan (BMEP) which demonstrates how the proposed development will be managed in perpetuity to enhance wildlife, together with a programme of implementation, shall be submitted to and approved in writing by the Local Planning Authority. The BMEP will be expected to include the provision of integral bat/bird bricks within the dwellings equivalent to a ratio of one/dwelling in line with the advice contained with the Council's adopted Residential Design SPD. The development shall thereafter be implemented and maintained in accordance with the approved Plan and programme of implementation.  
**Reason for pre-commencement condition** - In the interests of protecting and improving existing, and creating new wildlife habitats in the area.
- 10) **Pre commencement condition:** No development related works shall take place within the site until a written scheme of archaeological work has been submitted to and approved in writing by the Local Planning Authority. This scheme shall include on-site work, and off site work such as the analysis, publication, and archiving of the results, together with a timetable for completion of each element. All works shall be carried out and completed in accordance with the approved scheme, unless otherwise agreed in writing by the Local Planning Authority.  
**Reason for pre commencement condition:** To ensure the appropriate identification, recording and publication of archaeological and historic remains affected by the development. This information is required before development commences to ensure that historic remains are not damaged during the construction process.
- 11) **Pre-commencement condition:** - Prior to the commencement of the development hereby approved a construction programme detailing the order in which the phases identified on drawing no. BRM-010-Phasing Rev 5.2 will be constructed shall be submitted to, and be approved in writing by, the Local Planning Authority. Thereafter the development shall be implemented in accordance with the agreed construction programme.  
**Reason for Pre-commencement condition:-** To ensure that the implementation of the development, and hence relevant triggers referred to in the conditions attached to this consent and clearly understood and agreed.
- 12) Prior to the first occupation of any dwelling hereby approved the relevant mitigation requirements outlined in Acoustic Associates SW Ltd's Environmental Noise Impact Assessment (project ref: 7363, date: 24/07/2020) shall be met and implemented in full, and be maintained thereafter at all times unless otherwise agreed in writing by the Local



Planning Authority.

**Reason** - To ensure that an acceptable residential environment is created for future occupants of the properties.

- 13) Prior to commencement of construction of any part of the link road beyond plot 61 up to the northern boundary, as hatched in yellow on drawing no. BRM-010-Landscape Rev 5.2, details shall be submitted to the Local Planning Authority of its geometry and construction, together with details (including a timeframe for delivery) of a pedestrian/cycle connection from this road up to the boundary of the applicant's land ownership with the adjoining land to the east of the application site at a point to be agreed in writing as part of those details. Construction of this link road shall not be commenced until such details have been agreed in writing by the Local Planning Authority in consultation with the Highway Authority, and thereafter this section of road, and the pedestrian/cycle connection, shall be completed in accordance with the approved details.

**Reason:** To provide a safe and suitable access in accordance with paragraph 108 of the National Planning Policy Framework.
- 14) Prior to the first occupation of any individual dwelling identified on drawing no. 1415/P104 Rev D as being provided with cycle storage provision within the rear garden of that property, the said cycle storage provision shall be provided and made available for use in accordance with details that shall previously have been submitted to and approved in writing by the Local Planning Authority.

**Reason** - To ensure that adequate provision for the storage of cycles is provided to serve these dwellings.
- 15) A 3m footway/cycleway link (together with staggered barriers) adjacent to Plot 54 to Exeter Road shall be delivered as part of Phase 1 or such other trigger point as shall be agreed in writing with the Local Planning Authority in consultation with the Local Highway Authority as indicated on Drawing Number BRM-010-LANDSCAPE Rev 5.2

**Reason:** To provide a safe and suitable access in accordance with pns 108 and 110 of the National Planning Policy Framework and ECC Core Strategy CP9.
- 16) A footway link to the east of plot 42 shall be delivered up to the boundary of the applicant's land ownership as part of Phase 4 or such other trigger point as shall be agreed in writing with the Local Planning Authority in consultation with the Local Highway Authority as indicated on Drawing Number BRM-010 LANDSCAPE Rev 5.2

**Reason:** To provide a safe and suitable access in accordance with paragraphs 108 and 110 of the National Planning Policy Framework and ECC Core Strategy CP9.
- 17) Prior to the first occupation of the 15<sup>th</sup> dwelling comprising part of the development hereby approved a 2m wide footway adjacent to Exeter Road, associated crossing point and relocated bus shelter as indicated on Drawing number BRM-010-LANDSCAPE Rev 5.2 shall be provided in accordance with details that shall have been submitted to, and approved in writing by, the Local Planning Authority.

**Reason:** To provide a safe and suitable access in accordance with paragraphs 108 and 110 of the National Planning Policy Framework and ECC Core Strategy CP9.
- 18) Prior to the first occupation of any dwelling hereby approved within Phase 2

or 3 as identified on drawing no. BRM-010-Phasing Rev 5.2 the space for a 10 bike Co bike docking station and Parking bay for a Car Club vehicle within the respective phase (together with electricity supply to each element) shall be provided and made available for use as indicated on Drawing number BRM-010-LANDSCAPE Rev 5.2 in accordance with details that shall have been submitted to, and approved in writing by, the Local Planning Authority.

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

- 19) Prior to the first occupation of the 15<sup>th</sup> dwelling comprising part of the development hereby approved, the three raised tables on Exeter Road (together with crossing points) as indicated on Drawing Number 205368-A-02 Rev C shall be provided in accordance with details that shall previously have been submitted to, and approved in writing by, the Local Planning Authority.

**Reason:** To provide a safe and suitable access in accordance with paragraphs 108 and 110 of the National Planning Policy Framework and ECC Core Strategy CP9.

- 20) A detailed scheme for landscaping, including the planting of trees and or shrubs, the use of surface materials and boundary screen walls and fences shall be submitted to the Local Planning Authority and no dwelling or building shall be occupied until the Local Planning Authority have approved a scheme; such scheme shall specify materials, species, tree and plant sizes, numbers and planting densities, and any earthworks required together with the timing of the implementation of the scheme. The landscaping shall thereafter be implemented in accordance with the approved scheme in accordance with the agreed programme.

**Reason:** To safeguard the rights of control by the Local Planning Authority in these respects and in the interests of amenity.

- 21) In the event of failure of any trees or shrubs, planted in accordance with any scheme approved by the Local Planning Authority, to become established and to prosper for a period of five years from the date of the completion of implementation of that scheme, such trees or shrubs shall be replaced with such live specimens of such species of such size and in such number as may be approved by the Local Planning Authority.

**Reason:** To safeguard the rights of control by the Local Planning Authority in these respects and in the interests of amenity.

- 22) Samples of the materials it is intended to use externally in the construction of the development shall be submitted to the Local Planning Authority. No external finishing material shall be used until the Local Planning Authority has confirmed in writing that its use is acceptable. Thereafter the materials used in the construction of the development shall correspond with the approved samples in all respects.

**Reason:** To ensure that the materials conform with the visual amenity requirements of the area.

- 23) Any trees, shrubs and/or hedges on or around the site shall not be felled, lopped or removed without the prior written consent of the Local Planning Authority.

**Reason:** To safeguard the rights of control by the Local Planning Authority in these respects and in the interests of amenity.

- 24) No site machinery or plant shall be operated, no process shall be carried

out and no demolition or construction related deliveries received or dispatched from the site except between the hours of 8am to 6pm Monday to Friday, 8am to 1pm Saturday and at no time on Sundays, Bank or Public Holidays.

**Reason:** To protect the amenity of the locality, especially for people living and/or working nearby.

### Informatives

- 1) In accordance with Chapters 1 and 2 of the Conservation of Habitats and Species Regulations 2017, this development has been screened in respect of the need for an Appropriate Assessment (AA). Given the nature of the development, it has been concluded that an AA is required in relation to potential impact on the relevant Special Protection Areas (SPA), the Exe Estuary and East Devon Pebblebed Heaths, which are designated European sites. This AA has been carried out and concludes that the development is such that it could have an impact primarily associated with recreational activity of future occupants of the development. This impact will be mitigated in line with the South East Devon European Site Mitigation Strategy prepared by Footprint Ecology on behalf of East Devon and Teignbridge District Councils and Exeter City Council (with particular reference to Table 26), which is being funded through a proportion of the Community Infrastructure Levy (CIL) collected in respect of the development being allocated to fund the mitigation strategy. Or, if the development is not liable to pay CIL, to pay the appropriate habitats mitigation contribution through another mechanism (this is likely to be either an undertaking in accordance with s111 of the Local Government Act 1972 or a Unilateral Undertaking).
  - 2) In accordance with Paragraph 38 of the National Planning Policy Framework the Council has worked in a positive and pro-active way with the Applicant and has negotiated amendments to the application to enable the grant of planning permission.
  - 3) The Local Planning Authority considers that this development will be CIL (Community Infrastructure Levy) liable. Payment will become due following commencement of development. Accordingly your attention is drawn to the need to complete and submit an 'Assumption of Liability' notice to the Local Planning Authority as soon as possible. A copy is available on the Exeter City Council website. It is also drawn to your attention that where a chargeable development is commenced before the Local Authority has received a valid commencement notice (i.e. where pre-commencement conditions have not been discharged) the Local Authority may impose a surcharge, and the ability to claim any form of relief from the payment of the Levy will be foregone. You must apply for any relief and receive confirmation from the Council before commencing development. For further information please see [www.exeter.gov.uk/cil](http://www.exeter.gov.uk/cil).
  - 4) A legal agreement under Section 106 of the Town and Country Planning Act 1990 relates to this planning permission.
- (2) the Assistant Service Lead City Development be authorised to **REFUSE** planning permission if the legal agreement under Section 106 Agreement under the Town and Country Planning Act 1990(as amended) is not completed by 12 April 2021 or such extended time as agreed by the Service Lead City Development

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

- Affordable housing
- Open space provision – play equipment, maintenance arrangements and public access in perpetuity
- Education contributions
- GP facilities contribution
- Sustainable Travel Planning contribution
- Traffic Regulation Order contributions

the proposal is contrary to Exeter Local Development Framework Core Strategy 2012 Objectives 3, 5, 6 and 10, policies CP7, CP9, CP10, and CP18, Exeter Local Plan First Review 1995-2011 saved policies AP1, T1, T3 and DG5, and Exeter City Council Affordable Housing Supplementary Planning Document 2014.

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**PLANNING APPLICATION NO. 19/1465/OUT - LAND ADJOINING EXETER ROAD, TOPSHAM, EXETER**

The Principal Project Manager (Development) (MH) presented the application for Outline planning application for the construction of up to 24 dwellings (Use Class C3) - Means of access to be determined only (All other matters reserved).

The Principal Project Manager (Development) referred to the key issues of design, layout and amenity standards, affordable housing, sustainable drainage and ecology construction, heritage, economic benefits, CIL/Section 106 contributions, transportation matters, access and impact on local highways. He highlighted the following:-

- absence of a five year land supply;
- Paragraph 11 of the National Planning Policy Framework (NPPF) sets out that permission should be granted for sustainable development unless specific policies in the NPPF indicate otherwise;
- the location is considered to be sustainable and the proposal is acceptable in its design and general visual impact;
- the proposal is not considered to be of any significant harm to neighbouring residential amenity;
- there are no material considerations which it is considered would warrant refusal of this application; and
- the letter from the Topsham Society in respect of the Broom Park application (Min. No. 75 above refers) also referenced this Topsham Road application.

Will Gannon in his presentation to the Broom Park application (Min. No. 75 above) had stated that there was no reference in the report to the Club's objection and to its request for a condition putting the onus on the developer to mitigate the effects of the housing development on the golf course. The Principal Project Manager (Development) advised that the comments from the Golf Club were listed in the representations received relating to the proximity to the golf driving range and potential implications to residents.

The Principal Project Manager (Development) responded as follows to Members'

queries:-

- notwithstanding an earlier suggestion that the developer might not contribute to both education requirements and its affordable housing offer, the Section 106 Agreement would cover policy requirement provision of affordable housing of 35% and the required 70/30 split between social rent and other forms of intermediate social housing as well as the education contribution;
- the recommendations therefore included the option to refuse permission if affordable housing and education was not provided; and
- wheelchair provision would be secured within the standard conditions of the Section 106 Agreement.

Members expressed the following views:-

- educational requirements should not be at the expense of affordable housing which is the requirement of this Council; and
- difficult to oppose on grounds of the Topsham Gap issue following a number of appeal decisions and to make the same arguments. The application offers affordable housing, education provision and a contribution to a GP surgery and is an acceptable proposal.

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

The recommendation was moved and seconded and carried.

**RESOLVED** that:-

- subject to the completion of a Section 106 Agreement under the Town and Country Planning Act 1990 to secure:-
- affordable housing;
- open space provision, maintenance and public access in perpetuity;
- education contributions of Early Years £6,000, Primary £96,114 and Secondary £87,339; and
- all Section 106 contributions to be index linked from the date of resolution.

the Assistant Service Lead City Development be authorised to **APPROVE** outline planning application for the construction of up to 24 dwellings (Use Class C3) - Means of access to be determined only (All other matters reserved), subject also to the following conditions:-

- 1) Application for the approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission and the development hereby permitted must be begun not later than two years from the final approval of the last of the reserved matters to be approved.  
**Reason:** To comply with Section 92 rule 2 of the Town and Country Planning Act 1990 as amended.
- 2) **Pre-commencement condition:** Details of the appearance, landscaping, layout, and scale, (hereinafter called the reserved matters) shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

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

- 3) In respect of those matters not reserved for later approval the development hereby permitted shall be carried out in accordance with the proposed access scheme shown on drawing no. 19.489/002 Rev F. No part of the development shall be occupied until the proposed raised table access crossing points on the shared use path between Newcourt Road and Exeter Road shown therein have been provided in accordance with further details that shall have been submitted to and approved in writing by the Local Planning Authority.

**Reason:** To ensure that the means of access to the site are acceptable.

- 4) **Pre-commencement condition:** No materials shall be brought onto the site or any development commenced, until the developer has erected tree protective fencing around all trees or shrubs to be retained, in accordance with a plan that shall previously have been submitted to and approved in writing by the Local Planning Authority. This plan shall be produced in accordance with BS 5837:2012 - Trees in Relation to Design, demolition and construction. The developer shall maintain such fences to the satisfaction of the Local Planning Authority until all development the subject of this permission is completed. The level of the land within the fenced areas shall not be altered without the prior written consent of the Local Planning Authority. No materials shall be stored within the fenced area, nor shall trenches for service runs or any other excavations take place within the fenced area except by written permission of the Local Planning Authority. Where such permission is granted, soil shall be removed manually, without powered equipment.

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

- 5) **Pre-commencement condition:** A Construction Environmental Management Plan (CEMP) shall be submitted to and agreed in writing by the Local Planning Authority prior to the commencement of development on site and adhered to during the construction period. This should include details of monitoring and mitigation measures to control the environmental impact of the development during the construction and demolition phases, including site traffic and traffic routing, the effects of piling, and emissions of noise and dust. The CEMPs should contain a procedure for handling and investigating complaints as well as provision for regular meetings with appropriate representatives from the Local Authorities during the development works, in order to discuss forthcoming work and its environmental impact. No construction/demolition work shall take place outside the following times: 8am to 6pm (Mondays to Fridays) 8am to 1 pm (Saturdays) nor at any time on Sundays, Bank or Public Holidays.

**Reason for pre-commencement condition:** In the interest of the environment of the site and surrounding areas. This information is required before development commences to ensure that the impacts of the development works are properly considered and addressed at the earliest possible stage.

- 6) **Pre-commencement condition:** Prior to the commencement of development a Biodiversity Mitigation and Enhancement Plan (BMEP)

which demonstrates how the proposed development will be managed in perpetuity to enhance wildlife, together with a programme of implementation, shall be submitted to and approved in writing by the Local Planning Authority. The BEMP will be expected to incorporate the measures set out in Section 4 of the submitted Ecological Impact Assessment dated October 2019 prepared by EAD Ecology. The development shall be implemented and maintained in accordance with the approved Plan and programme of implementation.

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

- 7) **Pre commencement condition:** No development shall take place on site until a full investigation of the site has taken place to determine the extent of, and risk posed by, any contamination of the land and the results, together with any remedial works necessary, have been agreed in writing by the Local Planning Authority. The buildings shall not be occupied until the approved remedial works have been implemented and a remediation statement submitted to the Local Planning Authority detailing what contamination has been found and how it has been dealt with together with confirmation that no unacceptable risks remain.  
**Reason for pre-commencement condition:** In the interests of the amenity of the occupants of the buildings hereby approved. This information is required before development commences to ensure that any remedial works are properly considered and addressed at the appropriate stage.
- 8) **Pre-commencement condition:** Prior to commencement of the development the applicant shall submit for approval in writing by the LPA an Acoustic Design Statement. Any mitigation measures required shall be implemented in full prior to occupation of the development, and maintained thereafter.  
**Reason for Pre-commencement condition:** In the interests of the residential amenities of the potential occupants of the properties.
- 9) **Pre-commencement condition -** Prior to the commencement of the development a scheme for the mitigation/reduction of emissions to air from vehicular traffic generated by the proposed housing, based on an assessment of the quantum of those emissions, shall be submitted to and be approved in writing by the Local Planning Authority. Thereafter the development shall be implemented in accordance with the agreed mitigation measures and timescale.  
**Reason for Pre-commencement condition:** To ensure that the impact of vehicle emissions associated with the development is reduced in the interests of air quality.
- 10) **Pre commencement condition:** No development related works shall take place within the site until a written scheme of archaeological work has been submitted to and approved in writing by the Local Planning Authority. This scheme shall include on-site work, and off site work such as the analysis, publication, and archiving of the results, together with a timetable for completion of each element. All works shall be carried out and completed in accordance with the approved scheme, unless otherwise agreed in writing by the Local Planning Authority.  
**Reason for pre commencement condition:** To ensure the appropriate identification, recording and publication of archaeological and historic remains affected by the development. This information is required before development commences to ensure that historic remains are not damaged during the construction process.

- 11) **Pre-commencement condition:** The development hereby permitted shall not commence until a Standard Assessment Procedure (SAP) calculation which demonstrates that a 19% reduction in CO2 emissions over that necessary to meet the requirements of the 2013 Building Regulations can be achieved has been submitted to and approved by the local planning authority. The measures necessary to achieve this CO2 saving shall thereafter be implemented on site and within 3 months of completion of any dwelling a report from a suitably qualified consultant to demonstrate compliance with this condition will be submitted to and approved in writing by the local planning authority.  
**Reason for Pre-commencement condition:** In the interests of sustainable development and to ensure that the development accords with Core Strategy Policy CP15.
- 12) **Pre-commencement condition:** Prior to the commencement of the development hereby permitted, a Waste Audit Statement shall be submitted to and approved in writing by the Local Planning Authority. This statement shall include all information outlined in the waste audit template provided in Devon County Council's Waste Management and Infrastructure Supplementary Planning Document. The development shall be carried out in accordance with the approved statement.  
**Reason for Pre-commencement condition:** To minimise the amount of waste produced and promote sustainable methods of waste management in accordance with Policy W4 of the Devon Waste Plan and the Waste Management and Infrastructure Supplementary Planning Document. These details are required pre-commencement as specified to ensure that building operations are carried out in a sustainable manner.
- 13) **Pre-commencement condition:** Prior to or as part of the Reserved Matters, the following information shall be submitted to and approved in writing by the Local Planning Authority:  
(a) Soakaway test results in the area proposed for permeable paving in accordance with BRE 365 and groundwater monitoring results in line with our DCC groundwater monitoring policy.  
(b) A detailed drainage design based upon the approved Surface Water Drainage Strategy Drawing Number 19.489/050 Rev C and the results of the information submitted in relation to (a) above  
(c) Detailed proposals for the management of surface water and silt run-off from the site during construction of the development hereby permitted.  
(d) Proposals for the adoption and maintenance of the permanent surface water drainage system.  
(e) A plan indicating how exceedance flows will be safely managed at the site.  
(f) Evidence there is agreement in principle from the South West Water.  
No building hereby permitted shall be occupied until the works have been approved and implemented in accordance with the details under (a) - (f) above.  
**Reason for pre-commencement condition:** The above conditions are required to ensure the proposed surface water drainage system will operate effectively and will not cause an increase in flood risk either on the site, adjacent land or downstream in line with SuDS for Devon Guidance (2017) and national policies, including NPPF and PPG. The condition should be pre-commencement since it is essential that the proposed surface water drainage system is shown to be feasible before works begin to avoid redesign/unnecessary delays during construction when site layout is fixed.



- 14) Any reserved matters application submitted pursuant to the outline consent hereby approved shall incorporate within the layout a pedestrian/cycle path to the boundary of the adjoining land to both the west and east of the application site at points to be agreed by the Local Planning Authority in consultation with the Local Highway Authority as part of the consideration of the reserved matters application. The said pedestrian/cycle connection points shall thereafter be constructed up to the boundary of the applicant's land ownership prior to the first occupation of any dwelling contained within the development in respect of the connection to the east, and prior to the 5th occupation in respect of the connection to the west, or such other trigger point as shall be agreed in writing by the Local Planning Authority.  
**Reason:** To ensure that the opportunity to provide a pedestrian and cycle connection between the site and adjoining land is secured in the interests of permeability and facilitation of the use of sustainable modes of transport in accordance with policy CP9 of the Council's Adopted Core Strategy.
- 15) Any trees, shrubs and/or hedges on or around the site shall not be felled, lopped or removed without the prior written consent of the Local Planning Authority.  
**Reason:** To safeguard the rights of control by the Local Planning Authority in these respects and in the interests of amenity.
- 16) In the event of failure of any trees or shrubs, planted in accordance with any scheme approved by the Local Planning Authority, to become established and to prosper for a period of five years from the date of the completion of implementation of that scheme, such trees or shrubs shall be replaced with such live specimens of such species of such size and in such number as may be approved by the Local Planning Authority.  
**Reason:** To safeguard the rights of control by the Local Planning Authority in these respects and in the interests of amenity.
- 17) Samples of the materials it is intended to use externally in the construction of the development shall be submitted to the Local Planning Authority. No external finishing material shall be used until the Local Planning Authority has confirmed in writing that its use is acceptable. Thereafter the materials used in the construction of the development shall correspond with the approved samples in all respects.  
**Reason:** To ensure that the materials conform with the visual amenity requirements of the area.
- 18) The dwellings hereby approved shall be designed and built to meet M4 2 of the Building Regulations Access to and Use of Building Approved Document M, 2015 edition.  
**Reason:** To increase choice, independence and longevity of tenure in accordance with Policy CP5 point three of the Exeter Core Strategy.
- 19) Prior to the first occupation or use of the development hereby permitted, a Landscape and Ecological Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. The content of the LEMP shall be prepared in accordance with the specifications in clause 11.1 of BS 42020:2013 (or any superseding British Standard) and shall include the following:
- a) Description and evaluation of features to be managed.
  - b) Ecological trends and constraints on site that might influence management.
  - c) Aims and objectives of management.
  - d) Appropriate management options for achieving aims and objectives.

- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five year period).
- g) Details of the body or organisation responsible for implementation of the plan.
- h) On-going monitoring and remedial measures for biodiversity features included in the LEMP.

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

**Reason:** In the interests of biodiversity and good design in accordance with Policy CP16 of the Core Strategy, Policies LS4 and DG1 of the Local Plan First Review and paragraphs 58, 109 and 118 of the NPPF.

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

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

#### Informatives

- 1) A legal agreement under Section 106 of the Town and Country Planning Act 1990 relates to this planning permission.
- 2) The Local Planning Authority considers that this development will be CIL (Community Infrastructure Levy) liable. Payment will become due following commencement of development. Accordingly your attention is drawn to the need to complete and submit an 'Assumption of Liability' notice to the Local Planning Authority as soon as possible. A copy is available on the Exeter City Council website.  
It is also drawn to your attention that where a chargeable development is commenced before the Local Authority has received a valid commencement notice (i.e. where pre-commencement conditions have not been discharged) the Local Authority may impose a surcharge, and the ability to claim any form of relief from the payment of the Levy will be foregone. You must apply for any relief and receive confirmation from the Council before commencing development. For further information please see [www.exeter.gov.uk/cil](http://www.exeter.gov.uk/cil).
- 3) In accordance with Paragraph 38 of the National Planning Policy Framework the Council has worked in a positive and pro-active way with the Applicant and has negotiated amendments to the application to enable the grant of planning permission.
- 4) In accordance with Chapters 1 and 2 of the Conservation of Habitats and Species Regulations 2017, this development has been screened in respect of the need for an Appropriate Assessment (AA). Given the nature of the development, it has been concluded that an AA is required in relation to potential impact on the relevant Special Protection Areas (SPA), the Exe

Estuary and East Devon Pebblebed Heaths, which are designated European sites. This AA has been carried out and concludes that the development is such that it could have an impact primarily associated with recreational activity of future occupants of the development. This impact will be mitigated in line with the South East Devon European Site Mitigation Strategy prepared by Footprint Ecology on behalf of East Devon and Teignbridge District Councils and Exeter City Council (with particular reference to Table 26), which is being funded through a proportion of the Community Infrastructure Levy (CIL) collected in respect of the development being allocated to fund the mitigation strategy. Or, if the development is not liable to pay CIL, to pay the appropriate habitats mitigation contribution through another mechanism (this is likely to be either an undertaking in accordance with s111 of the Local Government Act 1972 or a Unilateral Undertaking).

- 5) The Professional Practice Guidance Note (ProPG): Planning and Noise for New Residential Development May 2017 (ANC, IoA and CIEH) describes the expected content and approach of an Acoustic Design Statement.
  - 6) Your attention is drawn to the consultation response of South West Water in terms of protection of their assets and the presence of a public sewer within the site.
  - 7) Drawing no. 9408-PL03C dated 14.10.2019 entitled 'Indicative Site Layout' is not hereby approved and has been treated as a feasibility plan only and therefore it should not be assumed that the layout depicted on this drawing would be considered acceptable at reserved matters stage without further negotiation.
- the Assistant Service Lead City Development be authorised to **REFUSE** planning permission if the legal agreement under Section 106 Agreement under the Town and Country Planning Act 1990(as amended) is not completed by 12 April 2021 or such extended time as agreed by the Service Lead City Development

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

- Affordable Housing
  - Open space provision, maintenance and public access in perpetuity
  - Education contributions
- The proposal is contrary to Exeter Local Development Framework Core Strategy 2012 Objectives 3, 6 and 10, policies CP7, CP10, and CP18, Exeter Local Plan First Review 1995-2011 saved policies AP1, and DG5, and Exeter City Council Affordable Housing Supplementary Planning Document 2014.

The Principal Project Manager (Development) (DC) presented the application for the construction of 44 dwellings; car parking including garages; landscaping; internal access roads and associated infrastructure and engineering works.

The Principal Project Manager (Development) set out a detailed description of the site area, the development plan status of the site and surrounding land and planning context of the site in relation to surrounding sites. The Principal Project Manager (Development) set out the proposal and referred to the key issues of affordable housing, scale, design and open space, impact on character and appearance, sustainable construction, economic benefits, Section 106 heads of terms, contribution towards education, flood risk and impact on local highways and parking, heritage assets and trees and biodiversity and highlighted:-

- the site is allocated for residential development in the Core Strategy;
- the application site is in a sustainable location for residential development;
- a positive contribution to the Council's five year housing land supply with a provision of 35% affordable housing (15 on-site affordable dwellings);
- good permeability for pedestrians and cyclists, with a link through the site to Hollow Lane, enhancing walking and cycling opportunities and reducing potential conflict with vehicular traffic;
- £65,000 contribution for off-site access/recreation improvements;
- contribution to enhance GP facilities in the locality
- a passing place proposed on Hollow Lane beneficial for a Strategic Cycle Route;
- the proposal is acceptable in its layout, design and general visual impact; and
- the proposal will provide a good level of amenity for future occupiers and will not result in any significant harm to neighbouring residential amenity.

The Principal Project Manager advised that Devon County Council had withdrawn their request for contributions towards primary education and Early Years provision because of the opening of Monkerton Primary School. She referred to an additional letter of representation expressing concern about the proposed size of a passing place on Hollow Lane and whether or not it would be large enough to prevent conflict between motor vehicles, pedestrians and cyclists. The Local Highway Authority was satisfied with the details.

It was noted that to the south east was land owned by Exeter City Council - the Ridgeline Park land - and that a financial contribution had been requested to improve the access and recreational value of this land. Measures would include creating east west pedestrian access points from Hollow Lane through the hedgerow and creating disability access and a path network. The contribution would also fund green gym items and habitat enhancement.

William Dale spoke in support of the application. He raised the following points:-

- the application is for 44 homes, 35% of which are affordable. Taylor Wimpey wish to deliver high quality residential development, as seen at Mayfield Gardens;
- application is in accordance with the Monkerton and Hill Barton Masterplan Area which designates the site for residential development. The scheme has been designed to provide continuity with the wider consented schemes, whilst creating a landscape led development which responds to the site's location along the Monkerton Ridge;
- the development demonstrates a positive relationship with the surrounding landscape and existing settlement. This includes providing vehicular access from Mayfield Gardens, off the Cumberland Way roundabout and providing a

pedestrian and cycle connection route through the scheme to Hollow Lane, to the south of the site.

- Hollow Lane connects to the newly constructed strategic cycling highway and the E4 cycle route;
- a vehicular passing place has been located along Hollow Lane which provides a more suitable road layout and passing place;
- the application site is in a sustainable location for residential development;
- the development would make a positive contribution to the Council's five year housing land supply;
- the proposal is compliant with the Council's affordable housing policy requirements;
- the proposal provides acceptable layout, design and general visual impact with a good level of amenity for future occupiers; and
- the site is wholly deliverable, achievable and suitable for the development of 44 homes as proposed.

He responded as follows to Members' queries:-

- the scheme provides 44 homes, and the social housing provision comprises four, one bed flats, eight, two bed dwellings, one, three bed dwelling and two, four bed dwellings providing 35% affordable homes in line with planning policy;
- these dwellings will be divided into 11 socially rented homes and 4 intermediate rented homes. One of the affordable homes will also be wheelchair accessible.

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

- the suggestion of a western entrance to the school as suggested by the Exeter Cycling Campaign had been discussed with the County Council but it was considered that an additional access might give rise to safeguarding issues and that there was already good permeability through the site as provided by the north to south pedestrian/cycle link;
- the pedestrian/cycle link was three metres in width and could therefore accommodate wheelchair access;
- the layby to be provided as part of a Section 278 agreement under the Highways Act 1980 would achieve a suitable vehicular passing place and road layout along Hollow Lane. The applicant was willing to provide this in response to a request from Ellen Tinkham School and Devon County Highways;
- the Section 106 Agreement was specific to the needs of the site and included the necessary traffic orders;
- the landscaped area to the east of the application site, between the application site and Cumberland Way, was outside the red line of the application site. Recommended condition nine required tree and hedge provision prior to development commencing;
- the Highway Authority considered the layout and design of the internal road network suitable for heavy vehicles including refuse vehicles; and
- the Section 106 Agreement included the requirement to link to the District Heating system with condition six dealing with energy and CO2 emissions, this required a reduction in carbon dioxide emissions required to meet 2013 Building Regulations.

Members expressed the following views:-

- concern regarding access arrangements to the school and the suitability of the

- proposed re-design of Hollow Lane; and
- scheme is acceptable with 35% affordable housing and a good mix of dwellings overall in accordance with the Monkerton Master Plan, with a desired education contribution and no concerns raised by the highway authority

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

The recommendation was moved and seconded and carried.

**RESOLVED** that:-

- (1) subject to the completion of a Section 106 Agreement under the Town and Country Planning Act 1990 to secure:-

**Affordable housing**

15.4 dwellings to be provided as affordable housing, 11 social rent and 4 intermediate rent. A financial contribution will be made towards the remaining 0.4 affordable dwelling. One of the affordable dwellings to be wheelchair accessible. 50% of the affordable home units to be constructed and made available for occupation prior to the occupation of 50% of Open Market units. Remaining 50% of AH units to be constructed and made available for occupation prior to occupation of 80% of Open Market units. 5% of the affordable dwellings (1 dwelling) to be wheelchair accessible

**Public open space**

Provisions to transfer the public open spaces to a management company with an agreed specification for the laying out and maintenance of these areas to mitigate and enhance biodiversity (i.e. LEMP).

**Highways infrastructure**

Financial contributions required as follows:

Traffic Regulation Order - £3000.00 (to be paid at Devon County Council's request)

Travel Plan - £500 per dwelling to be paid to Devon County Council

**Off site Access/Recreation Improvements**

£65,000 contribution for off-site access/recreation improvements.

50% of the contribution to be paid prior to open market houses being occupied and remainder to be paid prior to 80% of units occupied.

**District Heating Network**

Connection of the dwellings to the Eon district heating system in the area.

**Education Contributions**

Secondary - £123,245

Education infrastructure contributions are based on March 2015 prices and any indexation applied to contributions requested are to be applied from this date.

**GP Facilities/Provision**

£17,682 (£402 per dwelling) towards enhanced GP facilities/provision in the locality.

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

the Assistant Service Lead City Development be authorised to **APPROVE**

planning application for the construction of 44 dwellings; car parking including garages; landscaping; internal access roads and associated infrastructure and engineering works; subject also to the following conditions:

1. Standard Time Limit – Full Planning Permission

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

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

2. Approved Plans and Documents

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

- Site Location Plan (Dwg. No. 18003-BAK-L01.01 Rev P4)
- Elevational Treatment Plan (Dwg. No. 18003-BAK-L01.10 Rev P2)
- Proposed Site Plan (Dwg. No. 18003-BAK-L02.01 Rev P11)
- Illustrative Site Layout (Dwg. No. 18003-BAK- L02.02 Rev P7)
- Typical Street Elevations (Dwg. No. 18003-BAK-L04.01 Rev F)
- Illustrative Adoption Plan (Dwg. No. 18003-BAK-L05.01 Rev P7)
- Boundary Treatment Plan (Dwg. No. 18003-BAK-L92.01 Rev P7)
- Landscape and Boundary Details (Dwg. No. 18003-BAK-L92.02 Rev P3)
- Hardworks Plan (Dwg. No. 18003-BAK-L93.01 Rev P8)
- Softworks Plan (Dwg. No. 18003-BAK-L94.01 Rev P8)
- Single Garage Plans & Elevations (Dwg. No. 18003 G01-02.00 Rev P4)
- Attached Single Garages Plans & Elevations (Dwg. No. 18003 G02-02.00 Rev P4)
- H01 A – 2 Bed – (NA20) Floor Plans & Typical Section A-A (Dwg. No. 18003 H01 A-02.00 Rev P4)
- H01 A – 2 Bed – (NA20) Elevations (Dwg. No. 18003 H01 A-04.00 Rev P3)
- H02 A – 3 Bed – (NA30) Plans & Typical Section A-A (Dwg. No. 18003 H02 A-02.00 Rev P5)
- H02 A – 3 Bed – (NA30) Elevations (Dwg. No. 18003 H02 A-04.00 Rev P4)
- H04 A – 3 Bed – (NT31) Floor Plans & Typical Section A-A (Dwg. No. 18003 H04 A-02.00 Rev P4)
- H04 A – 3 Bed – (NT31) Elevations 01 (Dwg. No. 18003 H04 A-04.00 Rev P3)
- H06 A – 4 Bed – (NA42) Floor Plans & Typical Section A-A (Dwg. No. 18003 H06 A-02.00 Rev P4)
- H06 A – 4 Bed – (NA42) Elevations (Dwg. No. 18003 H06 A-04.00 Rev P3)
- H07 A – 4 Bed – (NA45) Floor Plans & Typical Section A-A (Dwg. No. 18003 H07 A-02.00 Rev P4)
- H07 A – 4 Bed – (NA45) Elevations (Dwg. No. 18003 H07 A-04.00 Rev P3)
- H08 A – 4 Bed – (NT41) Floor Plans & Typical Section A-A (Dwg. No. 18003 H08 A-02.00 Rev P4)
- H08 A – 4 Bed – (NT41) Elevations (Dwg. No. 18003 H08 A-04.00 Rev

P3)

- H10 A – 4 Bed – (NT42) Floor Plans & Typical Section A-A (Dwg. No. 18003 H10 A-02.00 Rev P4)
- H10 A – 4 Bed – (NT42) Elevations (Dwg. No. 18003 H10 A-04.00 Rev P3)
- H13 A – 1 Bed Flats Floor Plans & Typical Section A-A (Dwg. No. 18003 H13 A-02.00 Rev P5)
- H13 A – 1 Bed Flats Elevations (Dwg. No. 18003 H13 A-04.00 Rev P4)
- Proposed Levels (Dwg. No. 41196/2018/141 Rev E)
- Refuse Vehicle Tracking (Dwg. No. 41196/2018/111 Rev F)
- General Arrangement (Dwg. No. 41196/2018/101 Rev F)
- Drawing showing visibility splay for pedestrian/cycle path access to Hollow Lane and passing place on Hollow Lane (41196/2018/SK02)
- Surface and Foul Water Drainage (41196/2014/500 Rev I)
- Waste Audit Statement (Taylor Wimpey, October 2018).
- Arboricultural Impact Assessment (Michael J Steed Natural Resource Consultant 20<sup>th</sup> September 2018)
- Flood Risk Assessment REV G (Peter Brett Associates, 17 April 2020)
- Ecological Impact Assessment (CSA Environmental, CSA/3592/02, August 2018)

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

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

#### 3. Surface Water Drainage Management System

No development hereby permitted shall commence until the following information has been submitted to and approved in writing by the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority:

(a) A detailed drainage design based upon the approved Baker Land, Monkerton, Flood Risk Assessment, Project Ref: 41196/4002 Rev G Date April 2020 which should include evidence that the downstream Monkerton network and basins have capacity to accept flows from this development, long term storage and calculations reflecting the runoff rate based on the impermeable area only.

(b) Detailed proposals for the management of surface water and silt runoff from the site during construction of the development hereby permitted.

(c) Proposals for the adoption and maintenance of the permanent surface water drainage system.

(d) A plan indicating how exceedance flows will be safely managed at the site.

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

**Reason:** The above conditions are required to ensure the proposed surface water drainage system will operate effectively and will not cause an increase in flood risk either on the site, adjacent land or downstream in line with SuDS for Devon Guidance (2017) and national policies, including NPPF and PPG and Policy CP12 of the Core Strategy, Policy EN4 of the Exeter Local Plan First Review. The conditions should be pre-commencement since it is essential that the proposed surface water drainage system is shown to be feasible before works begin to avoid redesign / unnecessary delays during construction when site layout is fixed.



4. Contamination

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

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

5. Construction Method Statement

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

- a) The site access point(s) of all vehicles to the site during the construction phase.
- b) The parking of vehicles of site operatives and visitors.
- c) The areas for loading and unloading plant and materials.
- d) Storage areas of plant and materials used in constructing the development.
- e) The erection and maintenance of securing hoarding, if appropriate.
- f) Wheel washing facilities.
- g) Measures to control the emission of dust and dirt during construction.
- h) No burning on site during construction or site preparation works.
- i) Measures to minimise noise nuisance to neighbours from plant and machinery.
- j) Construction working hours and deliveries from 8:00 to 18:00 Monday to Friday, 8:00 to 13:00 on Saturdays and at no time on Sundays or Bank Holidays.
- k) No driven piling without prior consent from the Local Planning Authority.

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

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

6. Energy & CO2 Emissions

Prior to the construction of the dwellings hereby permitted, including construction of the foundations of the dwellings but excluding other site works, the developer shall submit a SAP calculation for the dwellings which demonstrates that a 19% reduction in carbon dioxide emissions from that required to meet the 2013 Building Regulations can be achieved. The measures necessary to achieve this carbon dioxide saving shall thereafter

be implemented on site and within 3 months of practical completion of any dwelling the developer shall submit a report to the Local Planning Authority by a suitably qualified consultant to demonstrate compliance with this condition.

**Reason:** To ensure that the proposal complies with Policy CP15 of Council's Adopted Core Strategy and in the interests of delivering sustainable development. These details are required pre-commencement as specified to ensure that a sustainable design is finalised before any irreversible element of the construction process takes place.

#### 7. Ecological Surveys

Prior to the commencement of development, an Extended Phase 1 Habitat Survey shall be carried out and the results of the survey shall be submitted to and approved in writing by the Local Planning Authority, unless the Ecological Impact Assessment (CSA Environmental, CSA/3592/02, August 2018) was dated in the preceding three years. The recommendations of the Extended Phase 1 Habitat Survey shall be implemented in full, including any recommended further survey work in which case no development shall take place until the further survey work has been carried out and the results have been submitted to and approved in writing by the Local Planning Authority. The recommendations of the further surveys shall be implemented in full.

**Reason:** To ensure that the implications of the development on biodiversity are fully understood based on up-to-date survey and any measures necessary to mitigate the impact of the development on protected species are identified and carried out at the appropriate time in accordance with saved Policy LS4 of the Exeter Local Plan First Review and paragraph 175 of the NPPF. Natural England's Standing Advice states that Local Planning Authorities can ask for extra surveys to be done as a condition of planning permission for outline or multi-phased developments to make sure protected species aren't affected at each stage. These details are required pre-commencement as specified to ensure that protected species are not killed or otherwise harmed by building operations.

#### 8. Biodiversity Mitigation Enhancement Plan

Prior to the commencement of development a Biodiversity Mitigation and Enhancement Plan (BMEP) which demonstrates how the proposed development has been designed to enhance the biodiversity value of the site and how it will be managed in perpetuity to enhance biodiversity, together with a programme of implementation, shall be submitted to and approved in writing by the Local Planning Authority. The BMEP shall take into account the mitigation and enhancement assessment of the submitted Ecological Impact Assessment (CSA Environmental, CSA/3592/02, August 2018) and the results of survey required by planning condition 7.

Thereafter, the development shall be carried out and managed strictly in accordance with the approved measures and provisions of the Wildlife Plan.

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

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

#### 9. Tree & Hedge Protection

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 the details specified in the Arboricultural Impact Assessment Report prepared by Michael J Steed ref 00140 and accompanying Tree Protection Plan (Rev 3). The developer shall maintain such fences to the satisfaction of the Local Planning Authority until all development the subject of this permission is completed. The level of the land within the fenced areas shall not be altered without the prior written consent of the Local Planning Authority. No materials shall be stored within the fenced area, nor shall trenches for service runs or any other excavations take place within the fenced area except by written permission of the Local Planning Authority. Where such permission is granted, soil shall be removed manually, without powered equipment.

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

10. Bird Breeding Season

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

**Reason:** To protect breeding birds in accordance with Policy LS4 of the Exeter Local Plan First Review, and paragraphs 174 and 175 of the NPPF. These details are required pre-commencement as specified to ensure that breeding birds are not harmed by building operations or vegetation removal.

11. Materials

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

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

12. Nesting and Roosting Boxes

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

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

NPPF.

13. External Lighting

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

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

***Pre-occupation***

14. District Heating Network

The buildings comprised in the development hereby approved shall be constructed in accordance with the CIBSE Heat Networks Code of Practice so that their internal systems for space and water heating are capable of being connected to the local decentralised energy district heating network. Prior to occupation of the development, the necessary on site infrastructure (including pipework, plant and machinery) for connection of those systems to the network in a manner agreed in writing by the LPA shall be put in place.

**Reason:** To ensure that the proposal complies with Policy CP13 of the Council's Adopted Core Strategy and paragraph 153 of the NPPF, and in the interests of delivering sustainable development.

15. Shared Use Pedestrian/Cycle Path

Prior to the occupation of the forty four dwellings hereby permitted, the shared use pedestrian/cycle path connecting the site to Hollow Lane shall be constructed in accordance with plans previously submitted to and approved in writing by the Local Planning Authority, in consultation with the Local Highway Authority.

**Reason:** To maximise the use of sustainable modes of transport in accordance with saved Policy T3 of the Exeter Local Plan First Review and paragraph 108 of the NPPF (February 2019).

16. Cycle Parking

Prior to the occupation of any dwelling hereby permitted, cycle parking facilities for the dwelling shall be provided in accordance with plans previously submitted to and approved in writing by the Local Planning Authority, in consultation with the Local Highway Authority. Thereafter the said cycle storage provision shall be retained for that purpose at all times.

**Reason:** To promote cycling as a sustainable mode of travel and to accord with the Sustainable Transport SPD.

17. Bin Stores

Prior to the occupation of any dwelling hereby permitted, bin storage for the dwelling shall be provided in accordance with plans previously submitted to and approved in writing by the Local Planning Authority.

**Reason:** To ensure that bin storage is provided for the dwellings in the

interests of good design and residential amenity.

18. Detailed Landscaping Scheme

Prior to the occupation of any dwelling hereby permitted, a Detailed Landscaping Scheme for the site shall be submitted to and approved in writing by the Local Planning Authority. The Scheme shall include details of hard and soft landscaping, including all boundary treatments and signage. The plan shall specify tree/plant species and methods of planting, including tree pit details. The hard landscaping shall be constructed as approved prior to the occupation of the dwellings. The soft landscaping shall be planted in the first planting season following the occupation of the dwellings or completion of the development, whichever is the sooner, or in earlier planting seasons wherever practicable, and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

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

19. Vehicular Access

Prior to occupation of any of the dwellings, details of the vehicular access point shall have been submitted to and approved in writing by the Local Planning Authority, in consultation with the Local Highway Authority. No dwelling shall be occupied until the vehicular access point has been provided, surfaced and marked out in accordance with the approved plans.

**Reason:** To provide a safe and suitable access for pedestrians and cyclists in accordance with Paragraph 108 of the NPPF.

20. Layby

Prior to occupation of any of the dwellings, details of the vehicular passing place on Hollow Lane shall be submitted to and approved in writing by the Local Planning Authority, in consultation with the Local Highway Authority. No dwelling shall be occupied until the vehicular passing place has been provided, surfaced and marked out in accordance with the approved plans and the passing place shall be retained for that purpose at all times.

**Reason:** To provide a safe and suitable access for pedestrians and cyclists on Hollow Lane in accordance with Paragraph 108 of the NPPF

21. Vehicular turning heads

Prior to occupation of any dwelling hereby permitted, details of the vehicular turning heads shown on *Drawing Number 18003-BAK-L02.01 Rev P11*, shall be submitted to and approved in writing by the Local Planning Authority, in consultation with the Local Highway Authority. No dwelling shall be occupied until the vehicular turning heads have been provided in accordance with the approved details. These facilities shall be retained for that purpose at all times.

**Reason:** To provide safe and suitable facilities for the traffic attracted to the site.

**Informatives**

- 1) In accordance with Chapters 1 and 2 of the Conservation of Habitats and

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

- 2) The Local Planning Authority considers that this development will be CIL (Community Infrastructure Levy) liable. Payment will become due following commencement of development. It is also drawn to your attention that where a chargeable development is commenced before the Local Authority has received a valid commencement notice (i.e. where pre-commencement conditions have not been discharged) the Local Authority may impose a surcharge, and the ability to claim any form of relief from the payment of the Levy will be foregone. You must apply for any relief and receive confirmation from the Council before commencing development.
  - 3) A legal agreement under Section 106 of the Town and Country Planning Act 1990 relates to this planning permission.
  - 4) In accordance with Paragraph 38 of the National Planning Policy Framework the Council has worked in a positive and pro-active way and has imposed planning conditions to enable the grant of planning permission.
- (2) the Assistant Service Lead City Development be authorised to **REFUSE** planning permission if the legal agreement under Section 106 Agreement under the Town and Country Planning Act 1990(as amended) is not completed by 12 April 2021 or such extended time as agreed by the Service Lead City Development.

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

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- Affordable housing
- Provisions to transfer the public open spaces to a management company
- Traffic Regulation Order contributions
- Sustainable Travel Planning contributions
- Off-site access/recreation improvements
- Connection to District Heating Network
- Education contributions
- GP facilities contributions

The proposal is contrary to Exeter Local Development Framework Core Strategy 2012 Objectives 3, 5, 6 and 10, policies CP7, CP9, CP10, and CP18, Exeter Local Plan First Review 1995-2011 saved policies AP1, T1, T3 and DG5, Exeter City

Council Affordable Housing Supplementary Planning Document 2014, Exeter City Council Public Open Space Supplementary Planning Document 2005, Exeter City Council Planning Obligations Supplementary Planning Document.

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**LIST OF DECISIONS MADE AND WITHDRAWN APPLICATIONS**

The report of the Director City Development, Housing and Supporting People was submitted.

**RESOLVED** that the report be noted.

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**APPEALS REPORT**

The schedule of appeal decisions and appeals lodged was submitted.

**RESOLVED** that the report be noted.

(The meeting commenced at 5.30 pm and closed at 7.50 pm)

Chair