

# Planning Committee Report - 18/0598/FUL

- 1.0 Application Number:** 18/0598/FUL
- Applicant Name:** Steven Sitch, Exeter Homes Trust, 6 Southernhay West, Exeter EX1 1JG
- Proposal:** Demolition of the existing dwellings and redevelopment of the site to create 31 nos. one and two-bedroom almshouse flats together with landscape enhancement to the adjacent Bull Meadow Park.
- Site address:** Hurst Almshouses, 2-24 Fairpark Road, Exeter EX2 4HL
- Registration Date:** 16 April 2018
- Link to application:** <http://publicaccess.exeter.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=P79KQ3HBHPC00>
- Case Officer:** Göran Molin
- Ward Member(s):** Cllr Branston, Cllr Moore, Cllr Vizard (Newtown and St Leonards Ward)

**REASON APPLICATION IS GOING TO COMMITTEE** – Application has been subject to a significant number of objections.

## 2.0 Summary of Recommendation:

DELEGATE authority to GRANT permission to the City Development Service Lead/Deputies subject to completion of a S106 Agreement and Undertaking following Section 111 of the Local Government Act 1972 relating to matters identified and subject to conditions as set out in the report, but with a secondary recommendation to REFUSE permission in the event the S106 Agreement and Undertaking following Section 111 of the Local Government Act 1972 is not completed within the requisite timeframe for the reason set out below.

## 3.0 Reason for the recommendation

The proposed development will have a substantial public benefit and accords with objectives and policies of the National Planning Policy Framework and the local development plan. The public and sustainability benefits of the application outweigh the harm to heritage assets.

The Council cannot demonstrate a 5-year housing land supply, and the proposal will contribute to housing delivery.

Therefore, the recommendation is one of approval subject to:

- a section 106 Agreement to secure affordable housing, and financial contributions towards enhancement of Bull Meadow Park and habitats mitigation; and,

- appropriate planning conditions and reasons.

#### 4.0 Table of key planning issues

Issue	Conclusion
Sustainable Development and Application of the NPPF	<p>The Council does not have a 5-year housing land supply, which would normally 'tilt' the determination towards permission unless other material considerations indicate otherwise. However, in this case, heritage considerations require a different balance to be applied first, which is 'non-weighted'.</p> <p>The presumption in favour of sustainable development must be applied afterwards in the tilted balance test.</p>
Principle of development	<p>This is a redevelopment of the same use and, therefore, in principle, acceptable. The development increases the number of almshouse flats from 12 to 31 flats with better internal amenity, sustainability and accessibility, utilising the low density of the site for the existing use. Therefore, the proposed development will have a substantial public benefit and accords with a range of Development Plan policies.</p>
Scale, design, impact on character and appearance	<p>The scale and massing are deemed appropriate in this location with an improved street scene and considerate architecture that uses local materials and colour scheme.</p> <p>The development sits better on the steep slope than the existing almshouses, with an improved relationship and levelled access to Fairpark Road and Bull Meadow Park.</p> <p>The character is significantly changed compared with the existing situation, but it is deemed to contribute positively to the street scene and the surrounding</p>

	area by its thoughtful architectural design.
Residential Amenity	<p>Residential amenity will comply with national space standards and the Council's Residential Design SPD, providing social housing that is both affordable and spacious.</p> <p>The development has created level access from the almshouse flats via the communal garden into the park. This is a significant improvement.</p>
Impact on amenity	The impact on the amenity of surrounding properties has been assessed with regard to privacy, outlook, natural light, overshadowing, noise and lighting and will not cause unacceptable harm.
Impact on Trees and Biodiversity	<p>One tree is proposed to be removed, and over 20 new trees will be planted. Biodiversity enhancement will also be provided through new habitats, soft landscaping and integral bird boxes.</p> <p>The impact on trees and biodiversity is acceptable.</p>
Flood Risk and Surface Water Management	The development will not cause flooding and has been designed to deal with surface water management appropriately.
Impact heritage assets	<p>Historic England has objected to the scheme because the development and the loss of the existing houses would cause harm to St Leonards' conservation area. Historic England considers there will be 'less than substantial' harm to the heritage assets.</p> <p>Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the proposal's public benefits, including, where appropriate, securing its optimum viable use (Para 202 NPPF).</p>

	<p>For the reasons set out in this report, it is concluded that public benefits outweigh the harm to heritage assets. It is deemed that the optimal use for this sustainable location is the intensification of existing use.</p> <p>A pre-determination archaeological investigation has been carried out that indicates significant archaeological remains, including disused burial grounds and the presence of a regionally important archaeological site dating back at least 700 years.</p> <p>Consequently, a condition has been added to secure a programme of archaeological works designed to preserve by record all archaeological remains at risk, following the recommendations by the Principal Project Manager (Heritage).</p>
Economic benefits	The development is liable for a Habitats Mitigation Contribution but not CIL as it is 100% social housing.
Access and Parking	The development is car-free with no vehicle access, which is appropriate in this location and for this proposed use.
Affordable Housing	All flats are affordable and rented out at a reduced rate (social housing) and for those over 55.
Accessibility and wheelchair accessible units	The development has level access to all apartments and includes three wheelchair accessible units.
Sustainable Construction and Energy Conservation	The development will meet Code for Sustainable Homes Level 4 in respect of energy and CO2 emissions.
Waste Management	<p>A condition has been added requiring submission of a Waste Management Plan.</p> <p>The exclusion of the turning head at Temple Road from the scheme has impacted the ability to use Temple</p>

	Road for refuse collection for this development. A condition has been added so that details of bin storage and collection points can be submitted and approved before commencing the development.
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## 5.0 Description of Site

The site is within St Leonard’s Conservation Area between Bull Meadow Park and Fairpark Road. To the south along Temple Road lie terraced houses. Adjacent to the development on Fairpark Road are large residential houses, including the Grade II listed Ernsborough Court. To the north is the junction of Magdalen Street, Western Way and Magdalen Road.

The site is currently accessed from Fairpark Road for pedestrians only. It measures approximately 0.25ha in size. The site comprises three 2-storey buildings, known as Hurst Almshouses and their associated grounds. The three buildings consist of 12 one-bedroom almshouses, which were built in 1928. The buildings are in the ownership of the Exeter Homes Trust.

The site is set on a slope that descends from east to west by approximately 6 metres, between Fairpark Road and Bull Meadow Park. The boundaries around the site are a mixture of historic stone walls to the north, east and south and hedgerow and a row of trees to the west adjacent to Bull Meadow Park. The stone wall to the north of the site is approximately 5 metres in height and part of the foundation of Magdalen Street.

The site lies in a predominantly residential area. To the east of the site beyond Fairpark Road are large detached properties and terraced properties. Directly to the south of the application site is a public right of way that runs along the site’s southern boundary and slopes steeply downwards from east to west. Bull Meadow Park to the west of the site is approximately 1.08 ha in size and contains an equipped children’s play area and picnic area.

The site is located sustainably, with the city centre approximately 800 metres to the north-west. Magdalen Street local centre lies 250 metres to the east of the site; it has many convenience shops, cafes, a public house and a post box. The nearest railway station to the site is Exeter St Thomas which is approximately 1.5km away

to the west and could be reached on foot. There are bus stops within walking distance of the site that provide regular services around the city and beyond.

The Exeter Local Plan First Review (Adopted March 2005) indicates several relevant designations to the site and its surrounding area. Firstly, the site is located within the St Leonard's Conservation Area and adjacent to the Southernhay and the Friars Conservation Area, which abuts the site to the west. Within this part of the Southernhay and the Friars Conservation Area is a burial ground and Bull Meadow Park, a public open space.

There are some listed buildings within the vicinity of the site, including the Grade II listed Ernsborough Court on the east side of Fairpark Road, the Grade II listed walls of the Jewish cemetery directly to the west and the Grade II listed terrace on Magdalen Street (nos. 65-68). However, the only building considered to be potentially impacted by development proposals is Ernsborough Court. There is an Area of Archaeological Importance which abuts the application site to the west. We know now from the pre-determination archaeological investigation that the area of archaeological interest extends into the site even if not designated as such.

The site is in Flood Zone 1, land categorised as being at the lowest risk of flooding. Therefore, a flood risk assessment is not required for this application. The applicant has nevertheless provided a scheme that will handle the surface water on-site following SuDS principles adopted by Devon County Council. In this location, the proposal is acceptable from a sustainable drainage perspective.

## **6.0 Description of Development**

The proposed development comprises an entirely residential scheme consisting of 31 no. 1-2 bedroom flats for beneficiaries of charity homes provided by the Exeter Municipal Charity (within Use Class C3). The three buildings in situ are currently being used for the same purpose, and so no change of use is proposed. To qualify for occupation of one of the Almshouse homes, an individual must be over 55, demonstrate a connection to Exeter and be capable of independent living. The flats are proposed to be rented out at a reduced rate and therefore qualify as 'affordable housing' under the terms outlined in the NPPF. In total, an extra 19 dwellings are proposed on the site, and they are a mix of 1 and 2 bedroom flats.

Internally, each home will have 1 or 2 bedrooms, a living/dining room, kitchen and bathroom. A communal/meeting room is also provided at the southern end of the building. Secure, private cycle and mobility scooter storage are provided in three locations across the site; two on the first floor and one on the ground floor. All would be accessible for residents of the building.

Two new pedestrian access points are proposed to the front of the new building off Fairpark Road in addition to the two existing access points. They provide level access to enhance accessibility for residents and visitors into the building. Currently, access is steep and unsuitable for people with mobility issues.

The proposal is a “car-free” development with no on-site parking. There would be an integral waste/recycling area and a second integral waste/recycling area provided to the northeast of the building for collection from Fairpark Road. The proposed bin collection relies on bins being collected from Temple Road; however, excluding the turning head at Temple Road from the scheme has impacted the ability to use Temple Road for refuse collection for this development. A condition has been added so that new details of bin storage and collection points can be submitted and approved before commencing the development.

The mix of the proposed homes is 25 1-bedroom dwellings and six 2-bedroom dwellings, 3 of which will be accessible units. Internally, the homes will measure between 50sqm to 75sqm, exceeding the minimum nationally described space standards. Private amenity space is to be provided for residents in the form of balconies, and a landscaped communal garden is also proposed to the rear of the building. The communal gardens meet the requirements in the Residential Design SPD, and there is also access to the adjacent Bull Meadow Park.

The building is split into three primary elements separated by two transparent stair cores. Aside from these stair cores, the roofscape appears as seven gables that resemble traditional buildings seen throughout the local area. The primary facing material for the elevations is brick in different red and brown shades. A red stone is proposed on the lower portion of the rear elevation; this type of stone can be seen on the adjacent viaduct on Magdalen Street. A natural slate roof is proposed, which would be in keeping with roofscapes seen locally and replicate the current almshouses roof material. Glazed balustrade balconies are proposed to the front and rear of the building.

The design of the proposed building is contemporary; however, it is heavily influenced by the traditional characteristics of the conservation areas and the Almshouses in the area. The proposed building is four storeys high from ground level. However, the scheme has been designed to be of a similar height and scale to the surrounding development, with only two storeys facing Fairpark Road.

## **7.0 Supporting information provided by the applicant**

15/04/2018\_Fairpark Rd. Ecology Report

15/04/2018\_Planning Statement Appendix 1 - Invitation to public consultation event

15/04/2018\_Planning Statement Appendix 2 - Presentation Pack prepared by Kendall Kingscott architects

15/04/2018\_ Planning Statement Appendix 3 - Consultation event response  
15/04/2018\_ Planning Statement Appendix 4 - The Design Review Panel response to presentation  
15/04/2018\_ Fairpark Rd. Archaeological desk-based study  
18/09/2018\_REVISÉD Acoustic Design Statement rev. A  
18/09/2018\_REVISÉD Heritage Impact Assessment - August 2018  
18/08/2020\_REVISÉD Fairpark Design Note 200818  
18/08/2020\_REVISÉD Hurst Almshouses Heritage Statement 1.3  
18/08/2020\_REVISÉD Planning Statement 2020-RevB-compressed  
18/08/2020\_REVISÉD KKL Refurbishment Fairpark Options Assessment Dec 2019  
16/04/2021\_Technical Note - Transport (Entran 26.03.21)  
31/03/2021\_Technical Note - Acoustic (10159.210331.TN1)  
31/03/2021\_REVISÉD Drainage Strategy\_FRA 2  
31/03/2021\_REVISÉD Drainage Strategy\_FRA 2 Appendix C - Proposed Site Plan  
31/03/2021\_REVISÉD Drainage Strategy\_FRA 2 Appendix D - Drainage Information - Drainage Layout  
31/03/2021\_REVISÉD 150161-910-Issue Sheet  
31/03/2021\_REVISÉD Fairpark Rd Tree Survey  
21/04/2021\_REVISÉD Fairpark DAS Rev 5  
15/04/2018\_ Fairpark Rd. Site Survey Sheet A  
15/04/2018\_ Fairpark Rd. Site Survey Sheet B  
31/03/2021\_REVISÉD 1714-01-P8 Landscape Plan  
31/03/2021\_REVISÉD 1714-02-P8 Planting strategy and Maintenance responsibility  
28/07/2021\_Interim Statement on Archaeological Evaluation.

## **8.0 Relevant Planning History**

There is no relevant planning history for this site.

## **9.0 List of Constraints**

- Conservation Area: St Leonards.
- The site is just outside the Area Of Archaeological Importance in the Local Plan. A pre-determination archaeological investigation has been carried out that indicates significant archaeological remains, including disused burial grounds and the presence of a regionally important archaeological site dating back at least 700 years.
- The Grade II listed Ernsborough Court is located on the east side of Fairpark Road,
- Noise from Magdalen Street and Magdalen Road. (No objection from Environmental Health, subject to a condition relating to noise mitigation).

## 10.0 Consultations

All consultee responses can be viewed in full on the Council's website.

The proposal had its first public consultation in May 2019 and was re-consulted with amended plans in April 2021. Historic England was consulted on the amended scheme in September 2020.

### National

**Historic England** has objected to the scheme because the development and the loss of the existing houses would cause harm to St Leonards' Conservation Area. The proposal was amended to respond to Historic England (HE) concerns. However, HE reiterated its position that there will be harm to the heritage assets of the site. It classifies this harm as being 'less than substantial'. Its objection also highlights the possibility of archaeological remains on-site and refers to guidance by our specialist archaeological adviser concerning their significance.

Given the strength of Historic England's concerns, they must be conveyed in detail here. The original Historic England advice set out the significance of the Hurst Almshouses, their setting and their importance within the wider St Leonards Conservation Area in some detail:

"Set on the Western edge of the St Leonards Conservation Area in central Exeter, the Hurst Almshouses are an attractive trio of red brick buildings. They were built in 1928 and remain exceptionally unaltered with charming detailing and pleasant garden surroundings. This part of Exeter lies outside the ancient city walls and it is thought that Magdalen Road may have historically been the main route towards London. It is this position on the edge of the City which has resulted in its population with almshouses, hospitals and cemeteries. Magdalen Road is so named because of the site of former Magdalen Hospital, a leper hospital which is now the site of Bull Meadow, an area of green space between the Jewish Burial Ground and Fairpark Road, now a public park. The Almshouses in this part of Exeter are of varying ages and building types, providing a definitive timeline of the design of almshouses architecture though the centuries - from the grade II\* listed 17th century Wynards Hospital to the west of the site, through the grade II listed late 19th century Magdalen Almshouses which sit in mature grounds facing the western end of Magdalen Road to a series of 20th century complexes which are undesignated yet of consistently high quality design and carefully maintained."

"Hurst Almshouses are two-storey red-brick buildings set against the steep bank between Fairpark Road and Bull Meadow. As one of a series of almshouses complexes in this part of Exeter, they are of historic value as an early 20th century example of the Exeter Almshouse tradition which provide so much of the character and built form in this part of the city. Their aesthetic value as distinctive, attractive and yet discreet housing is clear in views from the Magdalene St Causeway, Bull Meadow and from close proximity on Fairpark Road. The St Leonards Conservation Area was designated in 1968 and was specifically extended to include these

buildings in recent years - the Council's 2008 Conservation Area appraisal states that *"the three blocks of Almshouses are remarkably intact with all their original joinery and well-maintained gardens that add character to the area and form a distinct boundary before the open space of Bull Meadow acts as a buffer to the more central city area."* The almshouses are considered to have a positive impact on the character and appearance of the Conservation Area. Views from the west towards Magdalen Road, the heart of St Leonards, are of a layered, roof-scape, gently rising from the almshouses fronting the open space of Bull Meadow Park upwards to the grandeur of the large villas on Magdalen Road. The character and grain of this part of the Conservation Area is predominantly of individual houses, villas or small blocks set in spacious plots creating a spacious, well-maintained character. Built form is principally 2-3 storey in stucco or red-brick. The height of the built form around Fairpark Road and Magdalen Road allows for glimpsed views across the roof tops to the rolling Devon hills to the east but also allow for the historic walled city to retain its pre-eminence as the centre and focus of this ancient settlement. The causeway and Bull Meadow provide a clear transition from the more densely developed city centre where building heights and scale are considerably larger to the more loose-grained, residential suburb of St Leonards where gardens, trees and large houses provide the prevailing character."

In addressing the demolition of Hurst Almshouses, Historic England makes the following observations:

"Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that your Authority should pay special attention to the desirability of preserving or enhancing the character or appearance of Conservation Areas. Section 74 of that Act and paragraph 201 of the National Planning Policy Framework makes clear that there should be a presumption against the demolition of buildings that make a positive contribution to the significance of a Conservation Area."

"The St Leonards Conservation Area was specifically extended in 2008 to include these buildings, thereby demonstrating the importance placed upon their historic, aesthetic and communal value and their contribution to the wider character and appearance of St Leonards. We therefore disagree with the new Heritage Appraisal's assertion that they do not form a fundamental part of the area's special character and appearance. This part of the Conservation Area includes many Almshouses, ranging from 17th century to mid-20th century date and of varying yet consistently high quality design. Hurst Almshouses therefore form a key element of the continuum of almshouse development in this part of Exeter."

"As previously highlighted, these two-storey buildings lie on the edge of the St Leonards Conservation Area. They form a distinct boundary between the residential suburb of St Leonards and the open sweep of Bull Meadow Park which in turn provides a buffer with the denser, commercial heart of Exeter where the scale and height of the built form is considerably larger. Their sunken position in relation to Fairpark Road responds to the steep topography of the location and facilitates

expansive views from the western end of Magdalen Road, over the rooftops to the mature trees of Bull Meadow and to the wider countryside beyond the city. As was described in our previous letter, their position, scale and the topography also contribute to the clear layering of the built form within the Conservation Area as visible from the Causeway, Bull Meadow and the neighbouring Southernhay Conservation Area.”

Historic England also makes the following observations about the proposed development:

“Whilst some positive amendments have been made to the materiality and roof form of the proposed new building, its scale and massing remain entirely counter to that of the Conservation Area which provides its context and which it will front. The height and bulk of the new structure remains of a scale which would entirely dominate this part of the Conservation Area, eroding its domestic grain and massing which is predominantly characterised by two to three storey buildings, in terraces or as villas within large gardens.”

“Consequently, Historic England do not consider that the additional justification and design modifications now submitted allay our concerns about the impact of the loss of these undesignated heritage assets on the character and appearance of the St Leonards Conservation Area, nor of the suitability of the replacement.”

Historic England also advised that there may be non-designated archaeological heritage assets under the land and that appropriate advice should be sought from the Council’s Heritage Officer.

**RSPB** has not objected to the scheme and the conclusion in the applicant’s ecological report. However, it strongly recommends that 31 no. swift boxes are installed in clusters of two or three at least one metre apart, and that a planning condition is added concerning this.

#### External Agencies

**Devon and Cornwall Police** (Designing Out Crime) have no objection concerning the application. Still, they have made comments and recommendations for consideration regarding access and movement, lighting, internal security, activity, physical protection, access control, windows, storage for bins, mobility scooters and bicycles, external cycle stands, ownership, surveillance, management and maintenance.

#### Internal and including DCC

**Devon County Council as the Local Highway Authority** does not object subject to conditions regarding cycle storage provision and submission of a Construction Method Statement. The recommendation in their consultation reply initially required

submitting details of a turning head and on-site parking which no longer form part of the application. The applicant is still advised that additional on-street resident parking permits will not be issued to serve this development.

**Devon County Council Children's Services** has submitted a revised reply during the re-consultation and no longer requests an education contribution to mitigate the scheme's impact on demand for local school places. This development provides a total of 31 age-restricted dwellings. It would not be occupied by children.

**ECC Environmental Health** has no objection subject to conditions regarding noise and submission of a Construction Method Statement.

**ECC Housing Development Officer** – the officer who occupied this post at the time of the submission was very supportive of Exeter Homes Trust's proposal. Exeter Homes Trust is part of our Exeter Homes Partnership and is one of the Council's long-standing Registered Provider partners. The development will be 100% affordable and available for local people over the age of 55. The Trust will also enter into an s106 agreement to secure a policy-compliant level of affordable housing in perpetuity. There is a need for good quality affordable homes for older people in the city. Twenty per cent of households on the waiting list with a 1 or 2 bedroom need are over 55. The 31 new affordable homes will also free up more family-sized homes to be made available for larger families, contributing to relieving a local family housing shortage.

**ECC Principal Project Manager (Heritage)** – the officer who occupied this post at the time of the submission advised as follows:

“In view of the national and local policy presumptions and requirements regarding the retention of buildings that are identified as making a positive contribution to the character or appearance of conservation areas, and the high level of the criteria that would need to be satisfied to allow such a fundamental presumption to be overridden, I do not think that sufficient justification has been provided in support of the demolition and redevelopment of the present almshouses, as opposed to their retention, upgrading and extension.”

“It is desirable, and perfectly acceptable, given an appropriate design, for the buildings to be altered, refurbished and extended at sides and rear to enable modern space standards and other living requirements to be met, including providing better access within these links and extensions. The Trust has obtained the necessary funding and consents and achieved this for other older 2 storey almshouses in their care, which in fact carry more constraints in a sense as they are Listed, and the present structures are acknowledged as sound. There seems no reason for not being able to do so here, and no evidence has been provided to indicate otherwise.”

The current Principal Project Manager (Heritage) has provided the following additional observations:

“Under local and national planning policy considerable weight should be given to the protection of the historic environment when weighing up the relative benefits of any proposed development. In my opinion the level of cumulative harm to the historic environment by the proposed development exceeds the threshold of substantial and therefore should only be approved in exceptional circumstances. As previously advised the proposal will require the total demolition of undesignated heritage assets within a Conservation Area which was recently extended with the specific intention of protecting those assets. The increased mass and height of the new buildings will also harm the setting of listed buildings and the Conservation Area itself. The results of the archaeological evaluation show that the scheme will also now impact important archaeological remains and require the exhumation of a currently unknown number of individuals. The mitigation scheme I have suggested will off-set that harm in the event that the decision is taken to depart from policy and approve but should not be considered to be equivalent to retention in situ of the assets.”

### **ECC Principal Project Manager (Placemaking)**

The following advice was given in respect of the amended scheme:

- Although there has been a slight reduction in height and changes to the elevational detail, removing the vehicle access, parking and turning head from Temple Road is perhaps the most apparent change.
- Whilst the proposed appearance of the planned dwellings, in general, is sufficient, the greater height and scale in relation to the neighbouring Temple Road terraced houses is significant.

### Community Groups

**Exeter Cycling Campaign** objected to the initially proposed turning head on Temple Road. They also commented on the number and quality of storage spaces for cycles and mobility scooters, safe cycle linkages, traffic calming and speed reduction measures on Magdalen Road and requested that consideration is given to cycle and mobility scooter-users during construction.

**St Leonard’s Neighbourhood Association** objected to the initially proposed turning head on Temple Road. The association referred to the Conservation Area Appraisal for St Leonards but explicitly stated that their objection was not concerning appearance or massing.

**Devon Buildings Group** supports the principle of providing housing in the city centre and accepts that the existing buildings on the site, while of some historical interest, offer little aesthetically to the surrounding conservation area so that their replacement with a suitably designed scheme could potentially work well here. However, it strongly advocates that his proposal is rejected as being detrimental to the character

and appearance of the conservation area and that a more modest development for this site is sought.

## 11.0 Representations

134 representations were received including 129 objections: 129, raising the following concerns:-

- Almost all objections concerned the loss of land in Bull Meadow Park caused by the initially proposed turning head, which is now removed from the scheme.
- The objectors' secondary concern was about the impact of increased traffic on Temple Road caused by the turning head and vehicle access to on-site parking spaces now removed from the scheme.
- There was also concern from some neighbours and objectors regarding;
  - Traffic on Temple Road during the construction phase;
  - Character and the impact of the surrounding area, including St Leonards Conservation Area;
  - Level access;
  - Scale, massing and height;
  - Ecology and Wildlife Habitats;
  - Sewage and drainage matters; and
  - Overlooking and outlook.

Two representations were received in support of the application for the following reasons:

- The negative impact of the development is overstated by the objectors regarding:
  - The impact on Bull Meadow Park by the initially proposed turning head on Temple Road;
  - The impact from increased traffic on Temple Road during occupation (from the initially proposed turning head, vehicle access and on-site parking);
  - The design, appearance and height. Contrary to the objectors' view, the design reflects the existing character of the conservation area, including almshouses in the area.

A 415 signature petition "Spoiling Bull Meadow Park" was also received. The petition was primarily concerning the loss of land caused by the turning head. That part of the scheme is amended and removed, and therefore there is no petition directly related to the application in its current form.

The application went out for a second re-consultation of the amended scheme in April 2021. Three representation were received including two objections. There was one new person objecting to the development, one person revising the previously submitted objection and one person no longer objecting to the principle of the development but commenting on the design and the impact on vehicle movements without the turning head on Temple Road. However it should be clarified that although the re-consultation resulted in fewer objections than the first public

consultation there is no requirement to confirm previously submitted comments or objections.

## **12.0 Relevant Policies**

### Development Plan

#### **Central Government Guidance**

National Planning Policy Framework (NPPF) (2021) – in particular sections:

2. Achieving sustainable development
4. Decision-making
5. Delivering a sufficient supply of homes
8. Promoting healthy and safe communities
9. Promoting sustainable transport
11. Making effective use of land
12. Achieving well-designed places
14. Meeting the challenge of climate change, flooding and coastal change
15. Conserving and enhancing the natural environment
16. Conserving and enhancing the historic environment

#### Planning Practice Guidance (PPG)

- Appropriate assessment
- Climate change
- Design: process and tools
- Effective use of land
- Flood risk and coastal change
- Healthy and safe communities
- Historic environment
- Housing for older and disabled people
- Housing supply and delivery
- Natural environment
- Noise
- Open Space, sports and recreation facilities, public rights of way and local green space
- Planning obligations
- Use of planning conditions
- Waste

National Design Guide (MHCLG, 2021)

National Model Design Code (MHCLG, 2021)

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

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

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

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

Core Strategy Objectives

CP1 – Spatial Strategy

CP3 – Housing

CP4 – Density

CP5 – Mixed Housing

CP7 – Affordable Housing

CP9 – Transport

CP10 – Meeting Community Needs

CP11 – Pollution

CP12 – Flood Risk

CP14 – Renewable and Low Carbon Energy

CP15 – Sustainable Construction

CP16 – Green Infrastructure, Landscape and Biodiversity

CP17 – Design and Local Distinctiveness

CP18 – Infrastructure

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

AP1 – Design and Location of Development

AP2 – Sequential Approach

H1 – Search Sequence

H2 – Location Priorities

H3 – Housing Sites

H5 – Diversity of Housing

H7 – Housing for Disabled People

L4 – Provision of Playing Pitches

T1 – Hierarchy of Modes

T2 – Accessibility criteria

T3 – Encouraging Use of Sustainable Modes

T5 – Cycle Route Network

T9 – Access to Buildings by People with Disabilities

C1 – Conservation areas

C5 – Archaeology

EN3 – Air and Water Quality

EN4 – Flood Risk

EN5 – Noise

EN6 – Renewable Energy  
DG1 - Objectives of Urban Design  
DG2 – Energy Conservation  
DG4 – Residential Layout and Amenity  
DG5 – Provision of Open Space and Children’s Play Areas  
DG6 – Vehicle Circulation and Car Parking in Residential Development  
DG7 – Crime Prevention and Safety

**Exeter Draft Development Delivery DPD 2015**

DD1 – Sustainable Development  
DD9 – Accessible, Adaptable and Wheelchair User Dwellings  
DD13 – Residential Amenity  
DD20 – Accessibility and Sustainable Movement  
DD21 – Parking  
DD22 – Open Space, Allotments, and Sport and Recreation Provision  
DD25 – Design Principles  
DD26 – Designing out Crime  
DD28 – Conserving and Managing Heritage Assets  
DD31 – Biodiversity  
DD33 – Flood Risk

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

W4 – Waste Prevention  
W21 – Making Provision for Waste Management

Other material considerations

**Exeter City Council Supplementary Planning Documents**

Residential Design Guide SPD  
Archaeology and Development SPG 2004

**Conservation Area Appraisals and Management Plans**

St. Leonard’s 2008 Conservation Area Appraisal

**13.0 Human rights**

Article 6 - Right to a fair trial.  
Article 8 - Right to respect for private and family life and home.  
The first protocol of Article 1 Protection of property

This Recommendation is based on adopted Development Plan policies, the application of which does not prejudice the Human Rights of the applicant or any third party.

#### **14.0 Public Sector Equalities Duty**

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

- a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

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

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

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

- The development is fully accessible for wheelchair users having level access to all dwellings (“*Approved Document M M4(3) Category 3: Wheelchair user dwellings*” standard including internal lift).
- The dwellings meet the minimum standards in “*Approved Document M M4(2) Category 2: Accessible and adaptable dwellings*”.
- Three dwellings are wheelchair accessible (“*Approved Document M M4(3) Category 3: Wheelchair user dwellings*”), which is nearly 10% of the total number of dwellings of this development.

#### **15.0 Financial Issues**

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

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

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

#### Material considerations

100% Affordable housing, 31 dwellings

An open space contribution is not deemed required for this use and in this location adjacent to Bull Meadow Park to intensify the existing use as almshouses. However, a contribution of £20,000 towards enhancing the park is proposed to be secured in the s106 Agreement.

The development is liable for Habitats Mitigation Contribution but not CIL as it is 100% social housing exempt. This amounts to £22,629 and can be secured in the s106 Agreement.

#### Non-material considerations

New Homes Bonus.

## **16.0 Planning Assessment**

The key issues are:

1. Principle of development (including sustainable development and application of the NPPF)
2. Impact on heritage assets weighed against the public benefits of the proposal
3. Scale, design, impact on character and appearance
4. Residential amenity
5. Impact on amenity
6. Impact on Trees and Biodiversity
7. Flood Risk and Surface Water Management
8. Economic benefits
9. Access and Parking
10. Affordable Housing
11. Accessibility and wheelchair accessible units
12. Sustainable Construction and Energy Conservation

### The Principle of development

This development conforms with the Development Plan and is a redevelopment of the same use, and therefore the land use is in principle acceptable.

The Council does not have a 5-year housing land supply, which, under the NPPF, would usually 'tilt' the determination towards permission unless other material considerations indicate otherwise. However, in this case, heritage considerations require a different balance to be applied first. These considerations are set out in NPPF paragraphs 189-208 and are addressed in more detail in the section on heritage below.

The development increases the number of almshouse flats from 12 to 31 flats with better internal amenity, sustainability and accessibility, utilising the low density of the site for the existing use. The existing almshouse flats were in a suitable location but not fit for purpose regarding amenity, sustainability and accessibility.

The development:-

- i. supports accessible and affordable housing for poorer and older people, thereby promoting social inclusion and reducing deprivation;
- ii. promotes sustainability by being a car-free development in a highly sustainable location in line with the Council's climate vision Net Zero Exeter 2030;
- iii. provides dwellings towards the Council's five year supply of deliverable housing sites;
- iv. is an effective use of a previously developed ('brownfield') site in line with local and national planning policy.

The proposed development will therefore have a substantial public benefit and accords with Objectives 1, 3, 5, 6, 8 and 9, and policies CP1, CP3, CP4, CP5, CP7, CP10, CP11, CP12, C15, CP17 of the Core Strategy, and policies AP1, AP2, H1, H2, H5, H7, T1, T2, T3, C1, EN4, DG1, DG4 of the Local Plan.

### Impact on heritage assets weighed against the public benefits of the proposal

The impact on heritage assets is the critical consideration in respect of this application. Paragraph 202 of the NPPF states that "where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use". Paragraph 201 of the NPPF states that "where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss".

In making a recommendation on this application, Officers have carefully considered the balance between the harm to heritage and weighed it against the public benefits of the scheme. Officers deem that substantial public benefits has been achieved by this development that outweigh the harm or loss has caused by this development.

Without demolishing the existing buildings the density for the site and resulting in less social housing in form almhouse flats. It is therefore deemed demonstrated that both the demolishing and the density of the scheme are necessary to achieve the substantial public benefit that outweigh any substantial harm caused by the development.

The conclusion is that development is acceptable regardless if the harm to the designated heritage is deemed less than substantial (paragraph 202 NPPF) or if the level of cumulative harm to the historic environment by the proposed development exceeds the threshold of substantial (paragraph 201 NPPF).

The site is in St. Leonards Conservation Area and adjoins Southernhay and the Friars Conservation Area. Opposite Fairpark Road and located to the south-east of the development is the grade II listed building of Ernsborough Court. In the development vicinity are several grade II and grade II\* listed buildings either located in St Leonards Conservation Area or the adjacent conservation area of Southernhay and the Friars. The existing almshouses are deemed in the Council's Conservation Area Appraisal and Management Plan to contribute to St Leonards Conservation Area positively.

Historic England provided detailed advice on this application in March 2019. At this point, it objected to the scheme on the basis that it would cause harm to the character and appearance of the St Leonards Conservation Area and would result in the total loss of a complex of non-designated heritage assets, which make a positive contribution to that area. Amendments to the design and justification for the scheme were subsequently provided; however, these did not sufficiently address Historic England's earlier concerns. Therefore, it continues to object to this proposal.

For clarification, designated heritage assets include listed buildings, scheduled monuments, registered parks and gardens, World Heritage Sites and conservation areas. Non-designated heritage assets are buildings, monuments, sites, places, areas or landscapes identified by plan-making bodies as having a degree of heritage significance meriting consideration in planning decisions but which do not meet the criteria for designated heritage assets. The site is within St. Leonards Conservation Area, which is a designated heritage asset. The existing buildings within the applications site do not have any specific heritage designation. They are not listed. However, they do have a degree of heritage significance regarding their age, appearance and setting. They are non-designated heritage assets.

The applicant has explained why demolition is proposed rather than altering the existing buildings. The applicant has shown that alterations will increase the number of occupants, improve energy performance and internal amenity. Even significant modifications of the existing almshouses cannot achieve the same improvements as the proposed development.

Any major alterations to the existing buildings would have an impact on their significance and appearance. By extending the envelope of the buildings, they cannot keep their original appearance. As the submitted Heritage Statement states, "Conversion and extension of the buildings has been found to not be feasible as this would significantly alter the appearance of the buildings to such an extent that it is considered that their significance would be lost."... "a key element of the buildings' significance is their lack of alteration and thus upward and rear extension would significantly alter their historic appearance to the extent that their significance would be largely lost".

This report reaches the same conclusions as the Heritage Statement. It is not possible to achieve better functionality and an increased number of flats without altering the significance of the existing buildings, contrary to the views of Historic England and the PPM (Heritage). It is not merely the buildings' structural integrity that defines what is possible but rather the difficulties within the constraints of the existing buildings to create sustainable, accessible, spacious flats that conform to today's regulations and standards.

Notwithstanding the objection from Historic England and the PPM (Heritage), it is deemed that this development, by its architecture and design, has paid particular attention to the desirability of enhancing the conservation area's character in conformity to Policy C1 in the Local Plan and para 195 and 197 in NPPF.

Notwithstanding the demolition of the existing buildings, which will result in a total loss of their significance, it is considered that on balance, the new development will enhance rather than harm St Leonards Conservation Area. The scale in relation to the conservation area is well-considered and not harmful. The architecture of the new development has a positive impact. However, Historic England and the PPM (Heritage) hold an opposite view concerning the harm to designated and non-designated heritage assets.

It cannot be disputed that there are different views regarding the impact of the new buildings on the conservation area. It is acknowledged that there will be an impact on its character. Significant weight has been given to its importance as the designated heritage asset, as required by para 199 of the NPPF.

The pre-determination archaeological investigation results indicate that significant archaeological remains exist within the proposed development envelope. The investigation has provided the minimum amount of information required to determine

the application as required by NPPF and the Local Plan; consequently, ECC can now move to determination.

Two clear issues are emerging from the results of the archaeological evaluation: the treatment of human remains and the presence of a regionally important archaeological site dating back at least 700 years. For clarity, each issue is addressed in turn.

As part of the site includes a disused burial ground, specific legislation and guidance apply. Human remains are protected by law. The Secretary of State for Justice has jurisdiction. Any consent to develop the land would still require a Licence to Exhume from the Ministry of Justice before any works commence. The Council's Heritage Officer advised that the MOJ would be likely to grant a licence in this instance if the licence conditions could be met, but that decision is outside the remit of the Council.

Outside the responsibilities to the Ministry of Justice, there is no greater presumption against the disturbance of human remains than for other archaeological remains within the NPPF; there is, however, guidance from the Advisory Panel on the Archaeology of Burials in England, which is made up of representatives of the Church of England and Historic England. The over-arching principle across all legislation and guidance is that these individuals must be treated with dignity and respect.

The extent and density of the burials are not currently known, but similar sites have yielded over 600 inhumations. The archaeological report demonstrates that the burials extend into unevaluated areas. The skeletons exposed during the evaluation represent the last phase of burials on site. Their depth (in places only circa. 45cms below the existing ground surface) would suggest that there are likely to be earlier burials beneath them. It is also apparent that the soil around the articulated skeletons contains fragments of human remains, which are likely to continue across the site.

It should be assumed that all development activity on-site risks disturbing or damaging human remains either through direct impact, residual compression or changes to the hydrology or morphology of the site. The activity must be carefully controlled to ensure all human remains are treated ethically. The guidance also suggests that if the site is to have a domestic occupancy, human remains that could be disturbed in the everyday use of that site (i.e. gardening, landscaping/ tree planting) should be exhumed. The only way to secure the remains from the indignity of accidental damage would be to exhume those remains at risk under legal licence, allow a brief window of opportunity for their scientific study and arrange for their reburial in the closest available Christian Burial ground. This could be achieved within the broader context of an archaeological excavation.

The evaluation has established that the site contains structural archaeological deposits, probably associated with the 12<sup>th</sup> century Magdalen Hospital for sufferers of Leprosy. Documentary research indicates that the hospital was in use for over 700

years; therefore, surviving archaeological deposits are likely to contain evidence of multiple sequences of development and deep urban stratigraphy. The site was evaluated primarily to establish the presence/ absence and state of preservation of the known Medieval Hospital. It should be recognised that the site may also contain evidence of pre-medieval activity; for example, a single piece of Roman ceramic building material was noted within the evaluation. In terms of significance, a site such as this is relatively rare in the UK. If, as the evaluation suggests, preservation across the site is good, it should be classed as regionally important, with high research potential. The classification may increase dependent upon the discovery of nationally important remains.

The effects of the development can be mitigated by securing a programme of archaeological works designed to preserve by record all archaeological remains at risk. If the application is approved, a robust mitigation strategy should be secured by condition.

To conclude on heritage impact, it is necessary to consider Historic England's view that this development causes 'less than substantial' harm to the significance of the designated heritage asset, St Leonards Conservation Area. This harm should be weighed against the public benefits of the proposal, including, where appropriate, securing its optimum viable use (para 202 NPPF). The development increases the number of much needed social housing units from 12 to 31 flats with better internal amenity, sustainability and accessibility, utilising the low density of the site for the existing use. The proposed development will have a substantial public benefit that, on balance, outweighs the harm to the heritage assets. The optimal use for this sustainable location is the intensification of the existing use. Without the public benefit described above, it would not be possible to justify recommending approval of the application.

#### Scale, design, impact on character and appearance

The design accords with Policies CP17, DG1 and DG7, and Chapter 12 of the NPPF on achieving well-designed places. Local Plan policy DG1(f) states that the height of constituent parts of buildings should relate well to adjoining buildings. The proposal's principal elevation is towards Fairpark Road and will have two storeys like most adjoining buildings.

The scale and massing are deemed appropriate in this location with an improved street scene and considerate architecture that uses local materials and colour scheme. The development sits better on the steep slope than the existing almshouses, with an enhanced relationship and level access to Fairpark Road and Bull Meadow Park. Therefore, the development conforms to Policy C1 of the Local Plan, which requires that special attention be paid to enhancing the conservation area's character (see also the section above *Impact on heritage assets*).

The character will be significantly changed compared with the existing situation, but its thoughtful architectural design will positively contribute to the street scene and the surrounding area. The scheme was received positively by the Design Review Panel at an early stage (January 2018) and has subsequently been further improved, taking account of the Panel's observations.

The building is divided into three blocks by separating glass sections that include lifts and staircases. The development is two-storeys in height facing Fairpark Road and four storeys facing Bull Meadow Park. The two lower storeys form a plinth for the two upper storeys and are set into the slope. The plinth is similar in colour and material to Magdalen Street, where red Heavitree stone is prevalent. The massing of the blocks is further broken up into sections by gables and colours.

The two-storey scale facing the street conforms with neighbouring dwellinghouses. The four-storey elevation is appropriate towards the busy Magdalen Street, the park's north end, and the more prominent buildings opposite the development. The scale would accentuate the prominent location, nevertheless keeping a considerate scale facing Fairpark Road, St Leonards Conservation Area and the grade II listed building of Ernsborough Court.

#### Residential Amenity

The quality of residential amenity conforms to the national space standards and the Residential Design SPD, providing social housing that is both affordable and spacious in accordance with Policy DG4, making people feel at ease within their homes and gardens. The flats all have large balconies and communal garden space that is level, accessible and meets the Residential Design SPD guidance.

This is not a development for families with a designated play area but a landscaped communal area adjacent to the park with sitting-out areas. Open space is not required in this location because the proposal is to intensify existing use, and the site is adjacent to Bull Meadow Park; however, a contribution of £20,000 towards enhancement towards the park will be secured.

The development has created level access from the almshouse flats via the communal garden into the park. This is a significant improvement for the occupiers. The previous communal garden for the almshouses and the access into the park was not level due to the location in the middle of the very steep site.

#### Impact on amenity

Policy DG4 states that residential development should be at the maximum feasible density taking into account site constraints and impact on the local area and ensure a quality of amenity which allows residents to feel at ease within their homes and gardens. The latter applies equally to adjoining properties. The impact on the amenity

of surrounding properties has been assessed with regard to privacy, outlook, natural light, overshadowing, noise and lighting.

The development is only two storeys facing Fairpark Road with extensive front gardens facing the street. This is the reason for the development's relatively low impact on neighbours' amenity. The proposed development accords with Policy DG4 in terms of its effect on the amenities of surrounding properties, taking into account the central location and urban context.

To protect the amenities of the adjoining property south of the development, the proposed windows at the second and third floor in the south elevation are proposed to be obscurely glazed. A planning condition will secure this design in the interests of privacy.

#### Impact on Trees and Biodiversity

One tree is proposed to be removed; however, over 20 new trees will be planted as compensation. Biodiversity enhancement will be provided through new habitats, soft landscaping and integral bird boxes. The proposed development accords with Policies CP17 in the Core Strategy and DG1 in the Local Plan, and paragraph 174 of the NPPF.

#### Flood Risk and Surface Water Management

The site is within Flood Zone 1, and the proposed uses are appropriate in this zone. Ground infiltration is deemed not to be feasible in this location. Surface water will be discharged to the public sewer at a reduced flow rate by attenuation in a geo-cellular crate system.

The Devon County Council as Lead Local Flood Authority has no objection in principle, but requests pre-commencement planning conditions are added to ensure the proposed surface water drainage system will operate effectively and will not cause an increase in flood risk either on the site, on adjacent land or downstream in line with SuDS for Devon Guidance (2017) and national policies, including NPPF and PPG.

#### Economic benefits

The development is liable for Habitats Mitigation Contribution but not CIL as it is 100% social housing exempt. This will be secured in a s106 agreement, contributing £22,629 for the 31 flats.

#### Access and Parking

This is a car-free development with no vehicle access. A turning head and vehicle access into the site from Temple Road was proposed when the application was submitted. They were removed when the scheme was amended after the initial public consultation.

### Affordable Housing

All 31 flats are affordable and rented out at a reduced rate (social housing) for occupants over 55 years old; this will be secured in an s106 agreement.

### Accessibility and wheelchair accessible units

The development has level access to all apartments and includes three wheelchair accessible units.

### Sustainable Construction and Energy Conservation

The development will meet Code for Sustainable Homes Level 4 regarding energy and CO2 emissions in accordance with Policy CP15. The site is not in an existing or proposed Decentralised Energy Network area.

A Waste Audit Statement and details for refuse and bin facilities will be secured by condition.

## **17.0 Conclusion**

The public benefits of the application include:

- Provision of an increased number of affordable residential units on the site.
- Better accessibility to the residential units from Fairpark Road and into Bull Meadow Park.
- Homes that are fit for purpose in the 21<sup>st</sup> century in terms of sustainability and internal layout.

Modification of the existing buildings cannot achieve these benefits without harm to their external appearance.

On balance, the public benefits of the development outweigh the harm to designated and non-designated heritage assets arising from the loss of the existing buildings or their replacement with a more extensive built development.

The Council cannot demonstrate a 5-year housing land supply, and the proposal will contribute to housing delivery.

The proposed development will have a substantial public benefit and accords with Objectives 1, 3, 5, 6, 8 and 9, and policies CP1, C3, CP4, CP5, C7, C10, C11, CP12, C15, CP17 in the Core Strategy, and policies AP1, AP2, H1, H2, H5, H7, T1, T2, T3, C1, EN4, DG1, DG4 in the Local Plan.

Therefore, the recommendation is one of approval as set out below.

## 18.0 RECOMMENDATION

Dual Recommendation as set out below with B) only applying in the event of the failure to complete the S106 Agreement within the prescribed timeframe: -

**A) DELEGATE TO CITY DEVELOPMENT MANAGER TO GRANT PERMISSION SUBJECT TO THE COMPLETION OF A LEGAL AGREEMENT UNDER SECTION 106 OF THE TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED) TO SECURE THE FOLLOWING:**

- Affordable housing, as set out in the report.
- £20,000 as a contribution to the enhancement of Bull Meadow Park.
- Habitats Mitigation contribution as set out in the report.
- All S106 contributions should be index-linked from the date of resolution.

And the following conditions (and their reasons): Note the order for conditions which should be:

### 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 31 March 2021 including following drawings numbers, as modified by other conditions of this consent:

- 150161 AL(0)104-G Proposed Ground Floor
- 150161 AL(0)105-G Proposed First Floor
- 150161 AL(0)106-G Proposed Second Floor
- 150161 AL(0)107-G Proposed Third Floor
- 150161 AL(0)108-G Proposed Roof Plan
- 150161 AL(0)109-E Proposed Sections 1
- 150161 AL(0)110-F Proposed Sections 2
- 150161 AL(0)110-F Proposed Sections 2
- 150161 AL(0)111-E Context Sectional Elevations 1
- 150161 AL(0)112-E Context Sectional Elevations 2
- 150161 AL(0)113-F Proposed Elevations 1
- 150161 AL(0)114-E Proposed Elevations 2
- 150161 AL(0)115-E Proposed Elevations 3
- 150161 AL(0)116-B Proposed Section A-A
- 150161 AL(0)101-G Proposed Site Plan

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

3) 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.

4) Pre-commencement condition: No development shall take place, including any works of demolition, until adequate areas shall have been made available within the site to accommodate operatives' vehicles, construction plant and materials and a Construction and Environment Management Plan CEMP has been submitted to and approved in writing by, the Local Planning Authority. The statement should include details of access arrangements, measures to minimise the impact on the adjacent footpath and timings of the proposed works.

- a) The Statement shall provide for:
- 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 monitor and control the emission of dust and dirt during construction.
- h) Measures to monitor and minimise noise/vibration nuisance to neighbours from plant and machinery.

Notwithstanding the details and wording of the CEMP the following restrictions shall be adhered to:

- a) There shall be no burning on site during demolition, construction or site preparation works; Unless otherwise agreed in writing, no construction or demolition works shall be carried out, or deliveries received, outside of the

following hours: 0800 to 1800 hours Monday to Friday, 0800 to 1300 on Saturdays, and not at all on Sundays and Public Holidays;

b) Dust suppression measures shall be employed as required during construction in order to prevent off-site dust nuisance.

c) No driven piling without prior consent from the LPA

The approved CEMP shall be adhered to throughout the construction period.

Reason for pre-commencement condition: In the interests of the occupants of nearby buildings, highway safety and public amenity. This information is required before development commences to ensure that the impacts of the development works are properly considered and addressed at the earliest possible stage.

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

Reason: To ensure the dwelling(s) will achieve the energy performance standard required by Policy CP15 of the Core Strategy, taking into account the Written Ministerial Statement on Plan Making (25 March 2015) requiring local planning authorities not to exceed the equivalent of the energy requirement of Level 4 of the Code for Sustainable Homes, in the interests of reducing greenhouse gas emissions and delivering sustainable development. (Advice: Please see Paragraph: 012 ID: 6-012-20190315 of the National Planning Practice Guidance on Climate Change for background information.)

6) Prior to the commencement of the development hereby permitted, a Waste Audit Statement shall be submitted to and approved in writing by the Local Planning Authority. This statement shall include all information outlined in the waste audit template provided in Devon County Council's Waste Management and Infrastructure Supplementary Planning Document. The development shall be carried out in accordance with the approved statement.

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

7) 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, network model outputs, based upon the approved Flood Risk Assessment and Drainage Strategy dated March 2018, (including revised drawings submitted March 2021 to conform to amended scheme).

(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) Evidence there is agreement in principle from SWW to connect into their system

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

Reason: The above conditions are required to ensure the proposed surface water drainage system will operate effectively and will not cause an increase in flood risk either on the site, adjacent land or downstream in line with SuDS for Devon Guidance (2017) and national policies, including NPPF and PPG. The 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.

8) 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.

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

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

10) 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.

11) No external lighting shall be installed on the site or on the building hereby permitted 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.

12) The sound insulation provided by the façade elements shall meet or exceed the standards specified in paragraphs 3.2.3 and 3.2.4 of the submitted Clarke Saunders report 20-24 Fairpark Road ProPG Risk Assessment and Acoustic Design Statement (ref.: AS10159.180316.R1.1.docx, date: 17 July 2018) and supported by Clarke Saunders Technical Advice Note on the subject Revised Site Layout and Implications on Noise Assessment (ref.:10159.210331.TN, date: 31 March 2021).

Reason: To protect future residents from excessive traffic noise.

13) A detailed scheme for landscaping in accordance with submitted details (Landscape Plan 1714-01-P8 and Planting strategy and Maintenance responsibility 1714-02-P8), 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.

14) 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.

15) The dwellings hereby approved shall be designed and built to meet M4 2 (if not M4 3 - Wheel chair accessible dwelling) 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.

16) Pre commencement condition: No individual dwelling hereby approved shall be brought into its intended use sufficient refuse and bin facilities for residents have been provided in accordance with details that shall prior to commencement have been submitted to, and approved in writing by, the Local Planning Authority. Thereafter the said refuse and bin facilities shall be retained for that purpose at all times.

Reason: To ensure sufficient refuse and bin is provided in suitable collection points.

17) No part of the development hereby approved shall be brought into its intended use until pedestrian access points as indicated on the Proposed Site Plan Drawing Number 150161 AL(0)104 Rev G have been provided and maintained in accordance with details that shall have been submitted to, and approved in writing by, the Local Planning Authority and retained for that purpose at all times.

Reason: To provide a safe and suitable access, in accordance with Paragraph 108 of the National Planning Policy Framework.

18) Prior to commencement of the development, details shall be submitted to the Local Planning Authority of secure covered cycle parking provision for the development. Development shall not be commenced until such details have been agreed in writing by the Local Planning Authority, and prior to occupation the cycle parking shall be provided in accordance with the submitted details.

Reason: To provide adequate facilities for sustainable transport.

19) Before the development hereby approved is brought into use the proposed windows at 2<sup>nd</sup> and 3<sup>rd</sup> floor in the South Elevation of the property shall be glazed with obscure glass (as shown in drawing 150161 AL(0)113F) to a minimum level of obscurity to conform to Pilkington Glass level 3 or equivalent, and thereafter so maintained. Furthermore, no new windows or other openings shall be inserted in the 2<sup>nd</sup> and 3<sup>rd</sup> floor of this elevation.

Reason: To protect the amenities of the adjoining property.

**B) REFUSE PERMISSION FOR THE REASONS SET OUT BELOW IF THE LEGAL AGREEMENT UNDER SECTION 106 OF THE TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED) IS NOT COMPLETED BY 6 MARCH 2022 OR SUCH EXTENDED TIME AS AGREED IN WRITING 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, as set out in the report.
- £20,000 as a contribution to the enhancement of Bull Meadow Park.
- Habitats Mitigation contribution as set out in the report.
- All S106 contributions should be index-linked from the date of resolution

the proposal is contrary to Exeter Local Development Framework Core Strategy 2012 CP1, C3, CP4, CP5, C7, C10, C11, CP12, C15, CP17 in the Core Strategy, and policies AP1, AP2, H1, H2, H5, H7, T1, T2, T3, C1, EN4, DG1, DG4 in the Local Plan, Exeter City Council Affordable Housing Supplementary Planning Document 2014, and Exeter City Council Public Open Space Supplementary Planning Document 2005.