

# Planning Committee Report – 20/0691/FUL

- 1.0 Application Number:** 20/0691/FUL
- Applicant name:** Exeter City Living Ltd
- Proposal:** Demolition of existing sport facility and rifle range and redevelopment of the site to provide 42 new dwellings, associated car parking, amenity space and access.
- Site address:** Clifton Hill Sports Centre, Clifton Hill, EX1 2DJ.
- Registration Date:** 5 June 2020
- Link to application:** <https://publicaccess.exeter.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=QBGLTRHBHYX00>
- Case Officer:** Howard Smith
- Ward Member(s):** Cllr Richard Branston, Cllr Jemima Moore, Cllr Matthew Vizard

REASON APPLICATION IS GOING TO COMMITTEE – To agree changes to the Planning Committee resolution made on 14 December 2020.

## 2.0 Update:

- At Planning Committee on 14 December 2020 a resolution to grant consent was agreed subject to conditions being attached to that consent and the completion of a Section 106 Legal Agreement to ensure contributions of affordable housing, open space enhancements, secondary education, highways works and sustainable transport measures were secured. The minutes of the meeting for this item can be viewed via the following link: [20/0691/FUL - 14 December 2020 - Minutes](#).
- Following that committee resolution the applicant has presented a Viability Assessment to demonstrate the proposals for residential development are not viable taking into account an alternative use on the site as purpose built student accommodation. The viability report has been assessed independently on behalf of the Local Planning Authority which concluded that:

*“If the LPA is minded that sufficient evidence is provided to allow Purpose Built Student Accommodation to create an Alternate Use Value for the land, then it is our opinion that this would make the development unable to contribute to an on-site affordable housing contribution.”*

- The tests relevant to concluding whether the Alternative Use Value is appropriate suggested in national guidance on viability in plan making and decision taking are; i) if there is evidence that the alternative use would fully comply with up to date development plan policies, ii) if it can be demonstrated

that the alternative use could be implemented on the site in question, iii) if it can be demonstrated there is market demand for that use, and iv) if there is an explanation as to why the alternative use has not been pursued. These tests are considered to be met in this case in respect of purpose built student accommodation and evidence of the costs and values of the alternative use to justify the land value have been submitted and agreed. As such the Alternative Use Value is considered to be an appropriate basis to assess viability of the proposed development, and therefore it is agreed that the proposed development is unable to contribute to on-site affordable housing.

- Notwithstanding the above, the applicant has indicated their intention to seek third party funding to deliver affordable housing on site, however this would not be secured by planning agreement.
- With the exception of the affordable housing offer the application is in all other respects identical to that considered by Committee on 14 December 2020. There have been no material changes to the site since that time.
- The material changes in circumstances that have taken place since December 2020 are considered to be; confirmation of the Tree Preservation Order (no. 673) in May 2021, updates to the National Planning Policy Framework July 2021 and the Council's revised Five Year Housing Land Supply (5YHLS) position in September 2021. The Tree Preservation Order was made in December 2020 and was a material consideration in determining the application at that time; confirmation of the Order does not alter the weight that was attached to it in decision making. The NPPF changes introduced a National Model Design Code and greater emphasis on design quality with specific reference to including tree lined streets. The proposals, which incorporate a green street and comply with the Residential Design Guide SPD are considered to comply with the aims of the revised NPPF July 2021. The recommendation and resolution to grant consent in December 2020 was not dependent on the 5YHLS position and tilted balance at that time, and whilst weight was given to it, the scheme is considered to be policy compliant and acceptable without reliance on the titled balance.
- This report and the recommendation have been updated. The recommendation is to amend the resolution of Planning Committee of 14 December 2020 to omit the reference to affordable housing in the list of matters to be secured by S106 legal agreement.

### **3.0 Summary of Recommendation: as set out in Section 19 at end**

DELEGATE to GRANT permission subject to completion of a Section 106 Agreement relating to matters identified and subject to conditions as set out in report, but with secondary recommendation to REFUSE permission in the event the S106 Agreement is not completed within the requisite timeframe for the reason set out below.

#### 4.0 Reason for the recommendation:

- The site is a brownfield site within the urban area in a sustainable location close to a range of services.
- The proposal is acceptable in its design and general visual impact, including its impact on the Conservation Area and the Locally Listed Building.
- The proposal is not considered to be of any significant harm to residential amenity of nearby residential properties.
- The scheme will not provide affordable housing for viability reasons, but the applicant has indicated their intention to seek third party funding to deliver affordable housing on site.
- The proposals, through replacement planting on-site and contributions to the improvement of off-site green spaces are considered to adequately compensate for the loss of trees on site.
- The development would help the Council maintain a 5 year housing land supply.
- Concerns raised by local residents in respect of access matters can be suitably addressed through planning condition.
- Paragraph 11 of the National Planning Policy Framework (NPPF) sets out that permission should be granted for sustainable development unless specific policies in the NPPF indicate otherwise.
- There are no material considerations which it is considered outweigh the above and would warrant refusal of this application.

#### 5.0 Table of key planning issues

Issue	Conclusion
Principle of development/Five Year Housing Land Supply	The site is previously developed land in within the urban area and will help the Council maintain a 5 year supply of deliverable housing sites.
Transport	Subject to suitable conditions and meeting obligations within the Section 106 Agreement details regarding access, transport measures and financial contributions meet the requirements of the County Highway officer. Sustainable transport measures are incorporated and parking is below maximum standards.
Heritage Conservation	The proposals are considered to be a positive response to the Conservation Area and to retain the Locally Listed Brick Office enhancing its setting.
Environment	The proposals involve the loss of trees from the site and a scheme of

	replacement planting on site and enhancements to green spaces off site. Scheme to incorporate appropriate wildlife mitigation and enhancement.
Design	Design appropriate in context of the character of existing development in the locality. Garden and space standards are below local guide sizes in many units, but the scheme benefits from a good relationship to adjacent open spaces and will contribute the enhancement of such.
Affordable Housing	The scheme will not provide affordable housing for viability reasons, but the applicant has indicated their intention to seek third party funding to deliver affordable housing on site. This is a change from the position presented to the Planning Committee on 14 December 2020.
Impacts on existing occupiers	The revised proposals are not considered to result in any unacceptable overbearing impact, loss of light or loss of privacy to neighbouring residential properties. The proposals maintain the potential for rear access to properties on Portland Street.
Economic Benefits	Financial contribution towards the enhancement of public open spaces.
CIL/S106	CIL generated and S106 agreement to secure relevant benefits identified above.

## 6.0 Description of Site

The application site comprises the former Clifton Hill Leisure Centre, Rifle Range and Brick Office buildings and immediately surrounding land. It includes the vehicular access from Clifton Hill to the Ski Slope and Golf Driving Range.

The site is dominated by the Leisure Centre Building which is set back from the road and fronted by a car park. The Leisure Centre Building and car park are terraced into the site which slopes up as it goes back from Clifton Hill. The areas around and behind the Leisure Centre are informally landscaped including a variety of trees. The site adjoins the side and rear of existing dwellings on Clifton Hill and Portland Street.

The frontage of the site, including the Leisure Centre building, sits within the Belmont Conservation Area following the extension of the Conservation Area in 2007. The site is subject of a Tree Preservation Order.

## **7.0 Description of Development**

Demolition of existing sport facility and rifle range and redevelopment of the site to provide 42 new dwellings, associated car parking, amenity space and access. The dwellings comprise a mix of 11 five-bed and 20 four-bed houses and 7 two-bed and 4 one-bed flats.

The Old Brickworks Office is a locally listed building and is retained in the scheme. The Clifton Hill Leisure Centre, which is assessed as making a neutral contribution to the Conservation Area, "is considered a fine example of modern design from an internationally acclaimed architectural practice of Nicholas Grimshaw" and the rifle range building are proposed to be demolished.

The proposed dwellings comprise four one-bed and seven two-bed flats arranged in one four storey block. Also twenty four-bed and eleven five-bed houses, arranged as eight short terraces of three storey arrangement. One parking space is proposed for each of the houses in a mix of garages and parking courts, and three parking spaces are proposed for the eleven flats.

Access through the site to the Ski Slope and Golf Driving Range is maintained on the existing alignment.

The proposals involve the removal of 17 trees and the application is accompanied by a softworks landscape scheme which includes planting 24 trees on-site, 16 within the street spaces.

## **8.0 Supporting information provided by applicant**

The application forms and drawings are supported by:

- Arboriculture Survey and Tree Protection Plan
- Design and Access Statement
- Air Quality Assessment
- Ecological Appraisal Report
- Flood Risk Assessment
- Geotechnical report.
- Ground Investigation Report
- Report of Community Involvement
- Viability Assessment

## **9.0 Relevant Planning History**

06/0295/FUL. Provision of short game enclosure and net fencing (10m high) in south east of golf range site and screen fencing (6m high) to replace existing 3 m high fence on west boundary. Approved 19.07.2006

00/0502/ECC. Installation of netting fence on west side of existing golf driving range. Approved 01.06.2000.

93/0186/FUL. Construction of 24 bay golf driving range with reception office and storage and car parking for 47 cars and ancillary works including landscaping, floodlights and boundary fences on former running track. Approved 17.05.1993

85/1371/FUL. Beginners ski slope. Approved 11.12.1985

## **10.0 List of Constraints**

Conservation Area.

Potential for buried archaeology.

Tree Preservation Order.

HMO Article 4 area.

Proximity of dwellings.

Ground Contamination risk.

Surface water flood risk.

Unexploded Ordnance risk.

## **11.0 Consultations**

The application has been consulted on as received in July 2020, subsequently two revisions were consulted on September and the second in November. All representation received are reported here, with initial responses superseded by later where received.

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

### Environment Agency

The proposed development will be acceptable if a planning condition is included regarding unsuspected contamination. Without this condition, the proposed development on this site poses an unacceptable risk to the environment and we would object to the application. Suggested wording for this condition and the reason for this position is provided below.

We have reviewed the Geotechnical and Geo-environmental Assessments (Appendix C) in the Flood Risk Assessment report, dated 4/6/2020. Water management plans are included, such as groundwater and surface water runoff.

Made ground is mentioned, which is associated with contamination of landfill. We agree with the recommendation to remove the contaminated materials and minimum thickness of topsoil that has been imported. Also, to provide remediation statement and validation report. Also, we support other recommendations and conclusions in the assessment.

Movement of waste off-site – The Environmental Protection (Duty of Care) Regulations 1991 for dealing with waste materials are applicable to any off-site movements of wastes. The code of practice applies to you if you produce, carry, keep, dispose of, treat, import or have control of waste in England or Wales.

The law requires anyone dealing with waste to keep it safe and make sure it's dealt with responsibly and only given to businesses authorised to take it.

Wales & West Utilities has pipes in the area. Our apparatus may be affected and at risk during construction works. Should the planning application be approved then we require the promoter of these works to contact us directly to discuss our requirements in detail before any works commence on site. Should diversion works be required these will be fully chargeable.

Devon and Cornwall Police: There remain aspects of the design that do not support crime prevention through environmental design principles, and which have shown to increase the opportunity for crime which I cannot support. I would like to make the following comments and recommendations for consideration:

Providing accessible space to the rear of residential back gardens and plots increases the risk of crime and should be avoided. Examples also include the rear parking courts to plots 6-9 & 10-13.

Parking courts for plots 6-9 & 10-13 are afforded very little surveillance which can leave vehicles vulnerable to damage, theft etc.

Any perforated brick walls that form the boundaries of rear gardens must not inadvertently create footholds and climbing aids that promote unauthorised access to private gardens. A 1500mm brick wall topped with 300mm trellis could be an alternate.

For any communal cycle and/or bin storage, please refer to Secured by Design Homes 2019 for guidance.

Recommendations are made regarding door and window design, access controls and further measures to deter ASB.

Devon and Somerset Fire and Rescue; is a statutory consultee under the current Building Regulations and will make detailed comments at that time when consulted by building control (or approved inspector). Consideration should be given at an early stage for the provision of fire hydrants with an adequate water flow rate for the development. I have studied the drawings you have provided and they would (without prejudice) appear to satisfy the criteria we would require for B5 vehicular access under Building Regulations and so we have no objection to this development at this time.

DCC Waste Planning Authority: Paragraph 8 of the National Planning Policy for Waste and Policy W4 of the Devon Waste Plan requires major development proposals to be accompanied by a Waste Audit Statement. The application is not supported by any such statement and it is therefore recommended that a condition is attached to any consent to require the submission of a statement in advance of the commencement of development.

DCC Education: Devon County Council has identified that a development will generate an additional 9.75 primary pupils and 5.85 secondary pupils which would have a direct impact on the primary and secondary schools in Exeter. In order to make the development acceptable in planning terms, an education contribution to mitigate its impact is requested. DCC has forecast that there is enough spare primary capacity to accommodate the number of pupils expected to be generated from this development. A contribution towards primary education will therefore not be sought against this development. However, DCC has forecast that the secondary schools within Exeter are at capacity and therefore we will request secondary education contributions against the pupils expected to be generated from this development. The secondary education contribution sought is £138,791 (based on the DfE new build rate of £23,725 per pupil). The contributions will be used towards new secondary provision at South West Exeter. This new provision will release capacity at existing secondary schools across the city. In addition to the contribution figures quoted above, the County Council would wish to recover legal costs incurred as a result of the preparation and completion of the Agreement.

DCC Highways:

A transport statement has been submitted with the application, gauging the likely traffic generation of the existing and proposed development. The TRICS database has been used to compare the sites which is acceptable in principle. The resultant vehicle trip rates and associated traffic generation indicate that there will be a net decrease of 3 two-way trips in the AM Peak and a net decrease of 21 two-way trips on the PM Peak.

Notwithstanding this, the application site is a brownfield site and is in a sustainable location. It is well located in proximity to the City Centre and nearby cycle routes. Henceforth, given the above, the vehicular impact of the development cannot form a reason for refusal. Nonetheless, due to its location in relation to the City Centre every effort should be made to promote sustainable transport to justify the trip rates used.

Vehicular, Pedestrian and Cycling Access. It is proposed that the primary access for vehicles will be from Clifton Hill itself. Vehicular access to the "Mews Street" will be via a priority junction and vehicular access to the "Green Street" will be via a dropped kerb. In addition, five properties will have direct frontage onto Clifton Hill; all access points achieve visibility splays of 2.4 metres x 25 metres in accordance with the speed limit of 20 mph. The proposed access arrangements are shown indicatively on



the General Arrangement Plan Rev B – a condition is recommended to secure the details of such access points.

The existing access point onto the “Mews Street” has been tightened providing a better access into the development parcel, whilst also accommodating access to plot 1. The access leads to a 5.5m road serving the development parcel and the existing uses on site. The new access point to serve the “Green Street” is indicated to be private with a narrower entrance point serving a handful of properties; this is acceptable in principle.

It is proposed that the primary access for pedestrians and cyclists will also be from Clifton Hill. The applicant is proposing a 2m footway from the primary site access point to the southern boundary, where existing uses remain. A footway along the frontage of plots 1-5 still remains and ties into existing infrastructure. To add permeability to the site, a footway is provided to the north-west of Plot 7 into the “Green Street”. It is also noticed that a potential pedestrian access point is safeguarded alongside plot 20 and should be secured as part of a S106.

All highway works should be progressed through an appropriate agreement.

On site layout/Parking. The layout is broadly acceptable for a residential development and has been through a number of iterations with the applicant. It is particular pleasing to see a raised table being implemented at the crossroads, slowing vehicular speeds, whilst still providing access to all uses on site. There are however a few elements of the design which are overly highway focused for residential streets. Options to provide a lower speed environment that better encompasses the manual for streets philosophies should be refined through the Section 38 process.

The level of parking proposed is below the standards set out in the ECC residential design guide. However, given the sites location, the applicant’s intention to promote sustainable travel, minimising the reliance on a private car; by the way of a shared car, shared bikes and cycle parking, the parking levels are accepted.

The “Mews Street” is to be adopted by the Highway Authority and will need to a Traffic Regulation Order to advertise the extension of a 20mph zone and the advertisement of Double yellow lines. The site is situated in an existing residents parking area (C) where there is high demand for on street spaces, the applicant is advised that in accordance with current policy additional on street resident parking permits will not be issued to serve this development.

Roads within the development that are not to be adopted will need to be controlled by the applicant. The applicant should be implementing a car park management plan to minimise overspill parking on private areas (areas outside of the control of the Highway Authority).

Current policy sets out a requirement for secure sheltered cycle parking to be provided for all residential new builds. The Vehicular Parking Strategy Plan Rev A indicates that cycle parking will be provided, but there is a lack of detail as to if they are sheltered. For most properties, two cycle spaces per plot are provided, but no detail regarding their type is provided. Given that this application is so close to the city centre, cycling should be promoted and consequently cycle parking should be easily accessible. A condition is therefore recommended to secure details of cycle parking.

Travel Planning/Car Park Management: In accordance with paragraph 111 of the NPPF the development will be required to have a Travel Plan. A simple Travel Plan should be introduced including details of walking and cycling routes, as well as public transport including maps, timetables, and information about ticket offers. It should also include information about car sharing schemes, car clubs, eco-driving and motorcycle safety. These measures should be encouraged to continue the promotion of non-car-based travel. To discourage the use of the private vehicles, the applicant is providing a Co-car space (adjacent to the "Mews Street") together with a Co-Bike docking station. The number of e-bikes has not been provided and therefore should be conditioned. The location of the docking station is indicatively shown next to plot 5. The uptake of the sustainable measures should be monitored and controlled through the travel plan.

Construction: The proposals will require demolition/construction work adjacent to a busy environment. To protect the safety of users of the public highway it is essential that the construction arrangements are carefully managed, and that appropriate space is available off the highway for all construction plant/vehicles. It should be noted that suitable arrangements to access the Ski Slope/Driving Range should be made.

The revision in November decreased by two plots and is now 42 units. From a highways point of view there will be a less of a traffic impact and a reduction in 2 car parking spaces. The highways layout remains unaltered with the exception of a road narrowing which results in a pinch point of 4.2m. There is enough forward visibility for vehicles to see each other and give way; therefore, is not a concern for this standalone application. The applicant has reviewed the vehicle tracking for the plot opposite the pinch point; the updated tracking does not run over the footway. All other comments in the previous response still apply.

Summary: The proposal is in a sustainable location; within walking & cycling distance to employment hubs and the City Centre. National Policy is for the presumption of sustainable development and for safe & suitable access to be achieved. The proposed development provides sustainable measures with a slight benefit on the highway network. No objection subject to conditions suggested and S106 to secure £10k towards the advertisement (TRO), Co-Cars space and Co-bike docking stations (including bikes), and safeguarded pedestrian link adjacent to plot 20 to the southern boundary

ECC Public & Green Space: No leisure Public Open Space is included. Gardens are small. As a result, residents are likely to make use of existing local public parks. Given the proximity to existing public green spaces, it is considered appropriate for play and POS provision to be provided off-site subject to agreement of a contribution towards the provision and upkeep of parks and play infrastructure. Suggested contributions as follows: Open space contribution of £25,000 for the maintenance and upgrade of off-site public open spaces serving the development, An outdoor leisure contribution of £15,000 for the maintenance and upgrade of off-site play areas serving the development, A youth facilities contribution of £10,000 for the provision and maintenance of youth facilities, Playing Fields contribution of £20,000 for the provision and upkeep of outdoor playing fields city-wide

ECC Arboriculture Officer: The spatial relationship between trees (T8—T1) is unsatisfactory, additionally the proposed encroachment into the trees Root Protection Areas is not acceptable. Owing to the above this area of the development requires a re-design based on an agreed tree constraints plan. The Arboricultural Impact Assessment for Clifton Hill indicates that trees T3-T6 and T18-T30 will be removed to make way for the new development. This amounts to a total of 17 trees. Silver birch and Tulip tree T24 -T29, lend to the sylvan nature of the road and make a significant contribution to the amenity of the wider Conservation area. Therefore these trees should be retained. The loss of cherry plums, Norway maple, Liquidambar and apple T4-T6, T18-T23 is regrettable, but understandable owing to their position within the site and the requirement to make way for the new development. The proposed tree planting indicated by the Clifton Hill Softworks Plan, does not adequately mitigate for the loss of trees on site. In particular, no attempt has been made to replace the landscape value and screening provided by the trees being removed on the south western boundary (T18-T22), accordingly significant and robust planting scheme, on or adjacent to the south western boundary of the site is required to mitigate for the loss of trees. Metasequoia glyptostroboides which are shown to be planted in the green corridor (along Green Street) are capable of growing to very large at maturity (>30m height). Given the growth potential of these trees, they are unsuitable for the proposed location. In addition cross section draws are required of the proposed tree pits to demonstrate that adequate rooting volume has been provided to ensure the successful establishment and development of the trees. To ensure the successful establishment of newly planted trees, confirmation is required that all landscape plans that show the planting of new trees will include the following text: Trees will not be planted until written approval has been provided by the Council's Arboricultural Officer that he/she is satisfied with the condition and form of the trees to be planted. Any trees delivered to site or planted will comply with the British Standard Trees: from nursery to independence in the landscape –Recommendations BS 8545:2014. It is accepted The Council reserves the right to reject, and require the replacement of any trees that do not comply with the above British Standard either prior to or following the planting of the trees. If any trees planted as part of an approved landscape plan within a period of five years from planting is removed, dies or become seriously damaged/diseased it/they shall be replaced in the next planting season with

one of similar size, species and nursery stock. All trees above 6-8cm girth to be container grown. Planting pit details for trees planted within or adjacent to hard surfaces that include the installation of an underground crating system to provide sufficient rooting volume to ensure the newly planted trees establish and develop.

ECC Environmental Health: Recommend approval subject to conditions to control environmental impacts.

Exeter Civic Society (Planning) object to several parts of this proposal, to seek assurances on others and to comment that the applicants Exeter City Living Ltd at some points have not adhered sufficiently closely to the recommendations of the Residential Design Guidance provided by the Exeter City Council.

We consider that Green Street does not adequately merit that appellation; little planting, does not seem particularly attractive to residents or wildlife. Although it does form a pleasantly direct route to the Parkland beyond we consider that the steps shown would be difficult for those pushing prams or bicycles.

Object to the annexes for several reasons: there are already many 6 person houses in the proposal; these possibly introduce another type of housing not consonant with the domestic nature of the development; and particularly they occupy garden space which is woefully inadequate in the scheme as a whole. We have no confidence the plans allow adequate access to the back gates of houses in Portland Street Annexes also diminish garden space. In several properties, particularly the affordable apartments, there is inadequate provision for secure storage of bicycles

The developers clearly realise the paucity of private gardens and make a great virtue of the fact that Parkland, a pleasant grassed area, is available for recreation for residents and neighbours, but it is not designated as Public Open Space. We are therefore concerned about the deliverability of unrestricted access to the Parkland. Belmont Pleasure Ground is also cited as compensating for lack of reasonably-sized gardens; it will certainly help to do this but it is on the other side of a surprisingly busy road. We suggest that the developers should be required to provide a safe and well-signed crossing point.

Planning sub-committee welcomes the intention to introduce a variety of trees within the development but is concerned that the very large existing trees at the south-eastern boundary of the site do present an immediate problem and a possible eventual threat to the houses which they closely shadow. Stringent comments on these trees will be included with those on other aspects of this application in a forthcoming letter to the City Council asking that this poorly planned application be withdrawn.

Exeter Civic Society (Transport): These proposals fall short of meeting the recommendations in the Residential Design Guide and government design guidance documents. We are extremely concerned that there is little provision and space for cycle storage despite the site's location being sustainable. A newly submitted

illustrative master plan now shows cycle storage at the front of many properties, but there is no detail about whether this is secure or to indicate how many bicycles can be accommodated. Rear garden storage is shown for 6 properties but it is not clear whether there is rear access or whether people have to take their cycles through their homes. Additionally, most of these gardens are no larger than a single garage so sheds cannot be accommodated for cycle storage without compromising social space. Cycle storage within garages is not compliant. Five houses do not appear to have any cycle storage space. We applaud the bold move of providing just one parking space per house, even though this may prove challenging for the occupants of 4 bedroom homes. If garages are not large enough it will result in cars being parked on the highway. Garages not large enough for cycles and bins. We object to the use of rear car parking courts because this is an inefficient use of land. We are very concerned about the lack of provision for car or cycle storage for the 11 flats, described as social housing. We are concerned about the design of the Mews Street. This is the primary access to the development so it should be made wider and more attractive. We have concerns that larger vehicles will not be able to negotiate this changed junction. The Mews Street has the potential to be busy, but garages from the new development are positioned at the back of the pavement with no view of passing pedestrians or vehicles which could result in accidents. The Green Street is promoted as a pleasant space giving access to the new parkland. However, it will be steep in places, and because of the steepness of the site, the applicant has found it necessary to install a flight of steps where it links to the new park, making it inconvenient for anyone with mobility problems or with a push chair.

RSPB: we are pleased to see the developer' ecologists each residential unit will include a bat roosting unit/tube and a bird brick. Swift boxes are recommended by then ecology report to be located in groups. Additionally, ten bat boxes which are suitable for different species of bats will be installed on mature trees located away from lit areas. We therefore recommend that a plan showing locations and box designs is submitted at the next phase of the planning process and would welcome the opportunity to review and comment on it.

Exeter Cycling Campaign: The revised GA drawing received in November appears to be a huge improvement on the scheme to which we objected on 6th July. There are a few niggling points no cycle parking shown for plot 37 number 37, nos 14/15 have external steps to negotiate. But assuming that some visitor / general use Sheffield stands can be located in well supervised public spaces I am pleased to lift our previous objection to the scheme. Should the Council be minded to approve the application I would suggest that conditions are imposed including: Ironmongery details and occupation restriction until the cycle dock is installed. There are some interesting and innovative house types here and I congratulate the Planning Department on their insistence with including well located cycle parking in the scheme.

Design Review Panel: The scheme was presented to the Design Review Panel at pre-application stage. The Panel recommended that: The site organisation was well considered, the Green Street was supported, the low quantum of parking was

supported and could be reduced further, continuity of terracing may have been lost by forming parking courts, further consider the flow of water, size of some rear gardens small in relation to houses, flexible floorplans supported, Lifetime Homes welcome but concern over narrowness of some units, design of flats at early stage, define transition to highway to slow traffic, further consideration of intervisibility, very supportive of Passivhaus, addition of toddlers play space beneficial, street elevations supported, materials acknowledge historical palette in a contemporary manner.

## 12.0 Representations

The application has been advertised by site notice, press notice and neighbour letters. The application was first advertised in July 2020, subsequently two revisions were further advertised in the same manner as the first in September and the second in November 2020. In total 23 representations were received, 16 were in objection raising the following concerns:-

- Lack of access to rear of Portland Street and Clifton Hill properties.
- Two storey annex on boundary results in loss of light and overbearing on properties in Portland Street.
- Lack of fire access.
- Inadequate provision for cycle storage or inadequate access to rear gardens for cycles. Garages insufficient size to include cycle storage.
- One cycle per bedroom should be provided and space on site for cargo bikes.
- Visitor cycle spaces not well sited or overlooked.
- All of the existing trees are covered by TPO with this being a material consideration in the Planning process.  
Landscape areas available for the planting of *Corylus maxima* 'trees' adjacent to parking spaces 9 and 16 are too small to be viable.  
Removal of the boundary wall and associated construction of parking spaces will damage retained A Category Yew T1.
- 'Retaining Structures' are shown constructed within the tree Root Protection Areas (RPA) of retained trees T8 to T13 on the south-eastern boundary.
- The current application has failed to consider the safe retention of high value trees or provide suitable mitigation for tree loss at both a procedural and technical level. The recently uploaded information does not appear to have mitigated the detrimental impacts of the proposed development upon the retained trees.
- Should only build on the footprint of the existing sports centre and not on the surrounding green space. Will significantly decrease the amount of wildlife able to move around the (currently very green) site and will reduce much loved wildlife into the gardens of Portland Street residents affecting their quality of life.
- Houses which will be built on long this strip of land should be real family homes with gardens.

- Reality is that most families not only have one car but two sometimes 3 this without considering visitors could be an additional 80 plus cars! This area and the city is already congested and parking a big issue for this area.
- The green street is not going to be as green as we were led to believe.
- The townhouses should be family homes with green back gardens to compensate for the loss of the green space beside the sports centre.
- The bat and reptile surveys identified in the ecological appraisal have not been performed and I can confirm the presence of bats on the site.
- Reduce the overall surface water burden in comparison to the current site, but not the equivalent green-field and will continue to place stress on the existing surface water sewer, which regularly overflows during heavy rainfall events.
- Reduction in green space and biodiversity.
- Large house out of reach of local residents and may be more attractive to landlords.
- Design out of keeping.
- Over intensive development of the site.
- The height of some of the blocks, overbearing, overlooking to the existing residential properties.
- Accesses narrow to the site and a high number of vehicular movements potentially from vehicles parked on and around the site. Conflict with pedestrians/cyclists.
- Through traffic conflict to golf driving range and ski slope.
- Poor access for emergency vehicles and delivery vehicles parking temporarily.
- Hours of work and construction nuisance are a concern.
- Technical concerns relating to the retention of existing trees and mitigation remain for which the viability remains unproven and cannot be addressed through a Planning Condition.
- The quantum of mitigation for the loss of existing trees remains especially weak with no apparent attempt to address this.

One objection was from the Royal Devon and Exeter NHS Foundation Trust unless a s106 contribution of £56,732.00 is secured towards the cost of providing capacity for the Trust to maintain service delivery during the first year of occupation of each unit of the accommodation on/in the development, as the Trust will not receive the full funding required to meet the healthcare demand due to the baseline rules on emergency funding and there is no mechanism for the Trust to recover these costs retrospectively. The contribution will be used directly to provide additional healthcare services to meet patient demand.

8 representations in support or neutral for the following reasons:-

- Clifton Hill closure regrettable but housing is much needed.
- Support but should ensure EV charging, cycle spaces, green roofs, sustainable drainage, green energy, bat/bird nesting, biodiverse planting, reduce light pollution.

- Support but should have gardens not annexes.
- Should not be student lets.
- Recycling should be re-sited.
- Well-designed, much needed housing.

### 13.0 Relevant Policies

#### National Planning Policy

National Planning Policy Framework (2021)

Planning Practice Guidance

The National Design Guide 2019

#### Development Plan

Exeter Local Development Framework Core Strategy

CP3 Housing

CP4 Housing Density

CP5 Meeting Housing Needs

CP7 Affordable Housing

CP9 Transport

CP12 Flood Risk

CP14 Renewable & Low Carbon Energy

CP15 Sustainable Construction

CP17 Design and Local Distinctiveness

Exeter Local Plan First Review 1995-2011

AP1 Design and Location of Development

AP2 Sequential Approach

H1 Housing land search sequence

H2 Location Priorities

H5 Diversity of Housing

H7 Housing for Disabled People

L3 Protection of open space

L4 Provision of playing pitches

L7 Local Sporting Facilities

T1 Hierarchy of modes of transport

T2 Accessibility criteria

T3 Encouraging use of sustainable modes of transport

T10 Parking Standards

EN4 Flood Risk

DG1 Objectives of Urban Design

DG2 Energy conservation

DG4 Residential Layout & Amenity



DG6 Vehicle Circulation & Car Parking in Residential Developments  
DG7 Crime prevention and safety

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

W4 Waste Prevention

W21 Making Provision for Waste Management

#### Other Material Considerations

Exeter Development Delivery Document - Publication Version 2015

DD1 Sustainable Development

DD7 Allocated Housing Sites

DD12 Purpose Built Student Accommodation

DD13 Residential Amenity

DD20 Sustainable Movement

DD21 Parking

DD25 Design Principles

DD26 Designing out Crime

Belmont Conservation Area and Management Plan May 2007.

Sustainable Transport SPD March 2013

Affordable Housing SPD April 2014

Planning Obligations SPD April 2014

Public Open Space SPD September 2005

Residential Design Guide SPD September 2010

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

Tree Preservation Order

Trees and Development SPD September 2009

Exeter City Council Annual Infrastructure Funding Statement (31 December 2020)

Net Zero Exeter 2030 Plan

## **14.0 Human rights**

Article 6 - Right to a fair trial.

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

The first protocol of Article 1 Protection of property

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

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

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

### **15.0 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 person who do not share it involves having due regard in particular to the need to:

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

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

## 16.0 Financial Issues

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

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

The information on 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

- Open space contribution of £25,000 for the maintenance and upgrade of off-site public open spaces serving the development,
- An outdoor leisure contribution of £15,000 for the maintenance and upgrade of off-site play areas serving the development,
- A youth facilities contribution of £10,000 for the provision and maintenance of youth facilities,
- Playing Fields contribution of £20,000 for the provision and upkeep of outdoor playing fields city-wide would be required.
- A secondary education contribution is sought by DCC as Education Authority of £138,791 towards the provision of secondary school education capacity in the city.

### Non material considerations

#### CIL contributions

The adopted CIL charging schedule applies a levy on proposals that create additional new floor space over and above what is already on a site. This proposal is CIL liable. The rate at which CIL is charged for this development is £80.00 per sq metre plus new index linking. Confirmation of the final CIL charge will be provided to the applicant in a CIL liability notice issued prior to the commencement of the development. All liability notices will be adjusted in accordance with the national All-in-Tender Price Index of construction costs published by the Building Cost Information Service (BCIS) of the Royal Institute of Chartered Surveyors for the year when planning permission is granted for the development. Full details of current

charges are on the Council's website. The rate per sq m for residential development in 2021 is £118.93.

The proposal will generate council tax.

## **17.0 Planning Assessment**

### Principle of development

The Clifton Hill Leisure Centre provided indoor leisure facilities including racket sports, gym and sports hall before closing due to damage to the building. Alternative indoor leisure facilities are being provided by the St Sidwells Point due to open in spring 2021. Whilst the mix of facilities will differ there is not considered to be an overall detriment to the sports opportunities in the area and as such the proposals to redevelop the site for non-leisure use are not considered to be contrary to Development Plan policies CP10, L7 or CS6.

The site is an unallocated previously developed 'brownfield' site within the urban area and close to wide range of facilities, services and transport options satisfying the location hierarchy for residential development set out in the Development Plan; and in principle is considered suitable for residential development in accordance with the requirements of the NPPF and adopted local policies.

The Council has demonstrated in its latest Housing Supply Statement it has the required five year housing land supply; this means that the relevant policies in the adopted plan can be fully considered in the determination of this application, and that the presumption in favour of sustainable development ("tilted balance") in the NPPF is not automatically applied. The development of this site will help maintain the Council's five year land supply position.

### Transport

The site layout preserves access through the development to the Golf Driving Range, Ski Slope and private properties. The Highway Authority have confirmed that the layout of junctions with the public highway are acceptable. The accesses, traffic orders and works should be secured through S106 and conditions attached to any consent. Management of Construction to control impacts on the Highway and to provide for access through the site during construction can be secured by condition.

It is proposed that one car parking space is provided for each of the four and five bed houses and a total of three car parking spaces are provided for the eleven flats. All car parking spaces will be fitted with an Electric Vehicle charging point connection occupiers will be able to fit the car specific charger/system for their vehicle. It is proposed one car club space and one cycle club rack, both with electrical charging, be provided by the developer and this can be secured by conditional consent. Two covered cycle storage spaces are proposed to be provided for each of the four and five bed houses, and one cycle parking spaces is provided for each of the eleven flats. The site is located in an area of on street parking controls and would be

exempted from eligibility for on street residents parking permits. Land at the rear of the site is in private or Council ownership and subject to separate controls. The proposed car parking spaces are below the maximum standard set out in the Local Plan policy T10 but, given the sites proximity to services and transport links and the restrictions to on and off street parking, this is considered acceptable. Cycle parking spaces shown meet the Local plan standards set in Policy T3 and the Sustainable Transport SPD. A Travel Plan to support future residents in making sustainable travel choices can be required by condition.

In response to the application a number of residents on Portland Street who back on to the site and have informal access on to the site from the rear of their gardens have objected to the loss of that access and raised reasons of cycle access to the properties and fire escape. It is understood that there are no rights of access to the site from those properties and the proposals include a wall along that boundary. The comments of the Police in the matter of the access routes at the rear of properties are noted.

### Heritage Conservation

The site frontage on Clifton Hill, including the area of the Leisure Centre main building, is within the Belmont Conservation Area. The Leisure Centre buildings are assessed as making a neutral contribution to the Conservation Area. The fronting of the proposed dwellings onto Clifton, the green street link between the park and the green space at the rear of the site, and the modern take on a townhouse design is considered to be an effective response to the character of the area. As such the proposals are considered to make a positive contribution the character and appearance of the area and to accord with the requirements of Policy C1 of the Exeter Local Plan.

The 'Brick Office' within the site is locally listed heritage asset. The scheme does not propose bringing the building back into use but does incorporate the building in the development and incorporate it within a street scene where its setting is enhanced. As such the proposals are considered to accord with the aims of Exeter Local Plan Policy C3.

Given the history of development, including terracing and earth moving, on the site the potential for buried archaeology to remain is considered limited and a condition requiring a programme of archaeological monitoring can be attached to any consent to address the requirements of Policy C5 of the Exeter Local Plan.

### Environment

The site frontage on Clifton Hill, including the area of the Leisure Centre main building, is within the Belmont Conservation Area and the trees within the Conservation Area are protected by virtue of the Conservation Area status. A Tree Preservation Order has been made for the whole of the site. Such protections require

the consent of the Council as Local Planning Authority for any works to trees and those are assessed and presented for approval as part of this application. The proposal involves the removal of 17 trees. The development further encroaches within the root protection zones of 7 retained trees. The proposals include a landscape scheme showing 16 trees within streetscape and further smaller trees within gardens and parking courts. The detail of the landscape planting can be reserved by condition. The impact of loss of trees on the Clifton Hill frontage on the character and appearance of the Conservation Area is considered to be acceptable given the positive contribution that is made by the siting the proposed buildings fronting Clifton Hill. The retention of the Yew Tree and additional planting in the Clifton Hill Frontage and 'Green Street' are considered to appropriately set the buildings with trees. The loss of trees planted set back within the site with or following the Leisure Centre construction and the replacement planting within the site, and contributions to the enhancement of open space and green space elsewhere in the city discussed below is considered acceptable balance to realise development of the site for housing development. The retained trees on the rear boundary and Clifton Hill frontage that are proposed to be in close relation with car parking space formation and building works, including within root protection zones, need to be controlled by condition to ensure works are carried out in such a way as to not compromise the long term health of the retained trees.

Tree Preservation Order (TPO) no. 673 was made on 9th December 2020. This applies to 19 Trees within and immediately adjacent the application site that will be affected by the proposed development. A Tree Preservation Order prohibits cutting down, cutting of roots, topping, lopping, uprooting, wilful damage or wilful destruction of trees without the local planning authority's written consent. The current application would involve the felling of 13 Trees subject of this Order (4 further trees that are not subject of the TPO but subject of Conservation Area protection are also proposed to be removed), the retained trees are proposed to be subject of pruning and of protective measures during construction. The revised Soft works Plan shows 20 new trees being planted in communal and publicly accessible spaces on site. In considering an application, the local planning authority should assess the impact of the proposal on the amenity of the area and whether the proposal is justified, having regard to the reasons and additional information put forward in support of it. The authority must be clear about what work it will allow and any associated conditions. If consent is given, it can be subject to conditions which have to be followed.

Consideration has been given to the impact of the Golf Driving Range on future occupants. Bedrooms are generally situated at the front of the homes, facing away from the driving range. The top floor bedroom which faces the driving range has been recessed (with a roof terrace in front) and solid side walls to help block light. In addition, external flexible blinds are being proposed to provide shading and light control.

Geotechnical and Geo-Environmental Assessments have been submitted which identifies contamination risk on the site which will need to be further assessed, and inform construction methodologies to mitigate the identified risks.

Drainage proposed strategy for the site has been submitted with surface water run off rates being attenuated on site but, due to low ground infiltration potential of the site, with connection to a surface water sewer proposed which subject to final agreement by South West Water being satisfied that preferable options in the surface water destination hierarchy have been fully exhausted. This is subject to further control of details and implementation by suggested condition.

An assessment of the potential for Unexploded Ordnance on the site has been submitted. This concludes that whilst there is no evidence of Ordnance on site there remains a risk and recommends to be adopted to minimise that risk in construction which should be required to be adopted by condition attached to any consent.

Ecology surveys have shown low levels of bat activity mainly around the perimeter trees, leisure centre and rifle range buildings. The proposed works within the development site will result in the loss of habitats which are considered to be of limited value to foraging badgers, bats, birds and potentially reptiles. Additional on-site habitat creation associated with the scheme will provide new commuting/foraging habitat for badgers, bats, birds and reptiles, and enhancement measures will provide greater roosting/nesting opportunities for bats and birds. Precautionary timing and suitable control measures will be required to be adhered to in order to minimise potential impacts during vegetation removal and construction. As such it is considered that there are unlikely to be any significant adverse ecological impacts from the proposed works. The required measures can be secured by a condition attached to any consent to ensure the objectives of the NPPF 2021 set out in chapter 15 and Exeter Local Plan Policy DG1 and DG4.

This development has been screened in respect of the need for an Appropriate Assessment (AA) as required by the Habitats Regulations. 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 funded through a proportion of the Community Infrastructure Levy (CIL) collected in respect of the development or a contribution through another mechanism for any part of the development not liable to pay CIL.

The site is in Flood Zone One and not at significant risk of flooding. However there are areas of Newtown where surface water flooding has been recorded and drainage systems need to be designed to avoid contributing to that problem. The ground conditions do not allow for sufficient infiltration within the site and there are no nearby

suitable watercourses of surface water sewers, and hence the drainage proposals do involve the discharge of some surface water to the combined sewer with the agreement of South West Water and the proposals are considered to accord with the aims of Development Plan Policies EN4 and CP12. Details of the drainage of the site, and implementation, should be secured by condition attached to any consent.

## Design

The layout of the site necessarily incorporates vehicular access through to the Ski Slope, Driving Range and buildings at the rear of Clifton Hill. It also creates a new direct access through the site for non-vehicular traffic from Clifton Hill to the green space that the rear and the sports facilities. The fronting of the proposed dwellings onto Belmont Park and the green street, the link between the park and the green space and the modern take on a townhouse is an effective response to the character of the area. As such the layout is considered to integrate well into its surroundings and accords with policy DG1 of the Exeter Local Plan.

The height, massing and arrangement of blocks is considered to respond well to the pattern of development in the Belmont Conservation Area and accords with Development Plan policies DG1, DG4, CP5 and the aims of the National Design Guide.

Car parking is accommodated using a variety of arrangements including courts, on plot frontage and garage with only 3 spaces serving houses off plot. The design variety is welcome in reducing dominance of the parked car in the development as sought by policy DG6 of the Exeter Local Plan. High quality boundary treatments will need to be secured where on plot frontage parking is proposed on Clifton Hill. The incorporation of parking courts at the rear of the terraces which continue the line of Belmont Road break up that terrace diluting the strength of that form and this reduces the space at the rear which would be available as private outdoor space for a number of dwellings. The design of the rear annex has been amended to create a better sense of natural surveillance and landscaping has been incorporated to soften the space. Rear gates to the access routes at the rear of dwellings could be incorporated to deter antisocial use of those spaces.

The comments of the Police Architectural Liaison Officer are noted. There is a tension allowing rear access to dwellings and the potential for that to lead to crime. In this instance the rear access are short and the potential for those to be gated. There are a small number of doors and windows directly onto public space in the Mews Street, however these areas are sufficiently overlooked and open that, provided appropriate detailing of door and window security is adopted, is not considered unacceptable in consideration of Exeter Local Plan Policy DG7.

The highway layout within the site is broadly acceptable for a residential urban scheme, however a few elements of the design are overly highway focused for residential streets. Options to further encompass the manual for streets philosophies



will be refined through the Section 38 highways adoption process, and can be secured by conditions.

The developable area of the site is constrained by the need to link the sports and other uses at the rear to Clifton Hill with vehicular access. The density of the development at 50 dwellings per hectare is relatively dense and with 75% of those units being four or five bedrooms it results in a scheme which has a high ratio of built to open space. Development Plan policies DG4 & CP4 guide that development should be the maximum feasible density taking into account other policy constraints, but should ensure a quality of amenity which allows residents to feel at ease within their homes and gardens.

The scheme has been amended since first submitted and two units, the position and orientation of which were considered to give rise to loss of in building privacy have been removed. The compact nature and three storey height of the development result in outlook from windows on to walls no greater in height than half the distance to that wall set out in the Residential Design Guide. Exeter Local Plan Policy DG4 requires that residents should feel at ease in their own dwellings and outlook is a component of that. Generally those dwellings with a higher degree of enclosure do benefit for a quality and visual interest of the space to still result in a positive outlook. The access to communal open space in the green street and the close proximity to public green spaces in Belmont Park and at the rear of the site are considered to give benefit to the future residents and have been taken into account in considering the levels and from of private space that are considered necessary with the proposed dwellings. The Exeter Local Plan policy DG4 sets a minimum garden size of 55 square metres for dwellings, and the Residential Design Guide SPD advises this should be increased for north facing gardens or larger dwellings and should be one space rather than divided. The Residential Design Guide SPD give further guidance on appropriate garden sizes for dwellings and that balconies and other open spaces should not be counted towards the gardens sizes. This guidance is set out in the interest that residents should feel at ease in their own dwellings with each development proposal being judged on its merits. Whilst most garden spaces proposed with the four and five bedroom houses in this development fall below the minimum policy standards some units (numbers 9, 13, 14, 36, 38, 39, 40, and 41), benefit from layouts that ensure a level of visual relationship with the internal spaces that provide greater interaction with the outdoor space which contributes more directly to the daily lives of occupiers means that the objectives of policy DG4 for the amenity requirements for future occupiers are likely to be achieved. There is only one unit where open space as a quantum and arrangement is, plot 37, however on balance officers have not considered this to merit refusal of the application overall. Units 17-20 and 32-35 have a direct visual relationship with the adjacent green open space that supports better residential amenity. Others plots, including plots 1- 6, 7, 8, 10, 11, 12, 16, and 42 have a more traditional arrangement of private outdoor space but which falls below the standards set out in the Local Plan. It is considered that the proximity of two areas of informal and formal open recreation spaces immediately adjacent the site means that the objectives of policy DG4 for the amenity

requirements for future occupiers, that residents should feel at ease in their own dwellings, are likely to be achieved in all the dwellings.

The compact nature, dual aspect layout and provision of windows to habitable rooms and balconies at first and second floor levels mean that overlooking from windows and balconies to gardens within the scheme occurs at close proximity, however adequate in-building privacy is maintained as required to ensure occupants are comfortable in their own homes and as such the proposals are considered to accord with policy DG4 of the Exeter Local Plan and the Residential Design Guide SPD 2010.

Core Strategy Policy CP5 requires all dwellings to meet the Lifetime Homes standard which has been superseded by the optional Buildings Regulations requirement for adoptable dwellings (category 2) where feasible and practical. The applicant has confirmed that the internal layouts are flexible and that the dwellings can be laid out or adapted in future to meet this standard.

The buildings are designed to Passivhaus standard and will be highly insulated and air tight, with mechanically controlled ventilation with heat recovery. This will result in carbon emissions below those required by Exeter Core Strategy policy CP15. The compliance with that policy should still be controlled though a condition attached to any consent.

#### Dwelling Mix and Provision of Affordable Housing

Core Strategy Policy CP5 requires developments to incorporate a mix of dwelling sizes and that to be informed by the context, local housing need and the Housing Market Assessment. The development is comprised of 11 one-bed and two-bed flats, and 31 four-bed houses.

Core Strategy CP7 requires 35% of dwellings should be delivered as Affordable Housing and that at least 70% of the Affordable housing should be delivered as Social Rent. The discount allowed for vacant buildings on the site reduces the required percentage of affordable housing to 24% (or 10 units). The applicant originally offered 11 units, the 4 one-bed and 7 two-bed flats, as rented affordable housing, with a minimum of 70% being Social Rent, these to be adopted by ECC. This was 26% of the dwelling on the site. However, since the Planning Committee resolution on 14 December 2020, the applicant has submitted viability information demonstrating that this would not be viable. This has been independently assessed and verified. Therefore, affordable housing will no longer be secured as part of the grant of planning permission. However, the applicant has indicated to officers their intention to seek third party funding to deliver affordable housing on-site. (See Section 2.0 for further details.)

#### Impacts on existing occupiers.

The rear windows of the residential properties on Portland Street are minimum of 23m distant from rear of the main range of blocks on the south side of the 'Green Street' and hence in building privacy is considered to be adequately protected for both existing and proposed dwellings. Of those proposed dwellings five have a rear annex which is two storey and situated at the end of the plot separated from the rear of gardens of the Portland Street properties by an alleyway. There are no upper floor windows in those annexes facing Portland Street properties and no loss of privacy. The annexes are sited to the north of Portland Street properties and no significant loss of natural light would result. The annexes would be visible and this would be a marked change from the current view out onto the green space, however the planning system does not protect a private view and the impact is not considered to be unacceptable in planning terms. The annexes are in blocks of three, two and on an alignment with the side elevation of plot 17. Given the length of those walls and spacing of those buildings the impact is not considered to be overbearing on the gardens spaces in Portland Street.

The proposed development includes a block that stands aligned with the terrace on Belmont Road, though separated by the driveway to the rear parking court. The end terrace 70 Belmont Road is divided into three flats which, in the rear wing these have windows facing the site and will give some overlooking of gardens to plots 7 and 8 in the proposed development. Given the distance of separation the relationship between the proposed development and is considered acceptable. There is no counter overlooking from the development towards 70 Belmont Road. Properties adjacent the site at 26-29 Clifton Hill have an appropriate 22m distance between windows to habitable rooms and balconies from proposed dwellings. The front garden of Clifton Cottage will be overlooked from upper floor of plot 35 but retains privacy at the side and rear.

Open Space: Exeter Local Plan Policy DG5 guides that 10% of any development of family housing should be level open space, including equipped children's play space unless there is open space and play provision in the area which is well-located and of sufficient size to serve the development. The site is close to Belmont Park which has extensive childrens' play facilities and is directly linked to the informal green space at the rear of the site. On-site open space is provided as part of the Green Street which accommodates vehicular movement as well as planting, seating and sustainable drainage in a landscaped space. A further outdoor seating area is proposed adjacent the retained brick office building. Given the lack of on-site play or greenspace on site contributions toward the provision of play, sports and greenspace improvement (including Belmont Park and the greenspace at the rear of the site) as suggested by the ECC Public and Green Space team totalling £70,000 should be secured as part of any consent.

### Education

The County Council have advised that they consider sufficient existing capacity in primary education means that no contribution towards primary provision is required

from this development. A contribution of £135,232 is sought by the County Council toward the provision of additional secondary education provision in the city to meet the needs of secondary school age children that are anticipated from the development given the shortage of capacity in secondary education. This can be secured by S106 agreement.

### NHS Contribution

Representations have been made on behalf of the Royal Devon and Exeter NHS Trust, requesting a contribution of £56,732.00 from the development 'towards the cost of providing capacity for the Trust to maintain service delivery during the first year of occupation of each unit of accommodation on/in the development' to cater for the 'unanticipated additional population growth', to be paid in full prior to the commencement of the construction of the development. They say this contribution will be used directly to provide additional healthcare services to meet patient demand for: A&E attendances, non-elective admissions and short stays, elective admissions, day case admissions, regular attendances, outpatient appointments, outpatient appointment procedures and community nursing visits. In the absence of such a contribution the Trust objects to the application. Officers have written to the law firm acting on behalf of the Royal Devon and Exeter NHS Trust to explain why the contributions requested on this and other applications are not considered to be justified. Among other matters insufficient information has been provided of what this contribution would be spent on in the first year of occupation of each dwelling in the development and how it meets the 'tests' for planning obligations specified in CIL Regulation 122(2) and NPPF policy 57.

## **18.0 Conclusions**

The development will make effective use of a previously developed ('brownfield') site. The site is in a sustainable, accessible location, close to the City Centre. The principle of housing development in this location is acceptable in principle.

The scheme will help the Council maintain a 5 year supply of deliverable housing sites. Whilst affordable housing will not be secured as part of the grant of planning permission due to viability issues, the applicant has indicated to officers their intention to seek third party funding to deliver affordable housing on-site.

The scheme includes covered secure cycle parking for each unit and a club electric cycle rack and car club parking space with electric charging to both.

The scheme has been amended in order to eliminate privacy concerns between units within the scheme and improve private open space provision for the dwellings, though these are still below local policy/guidelines. Given the likely reliance on existing public open spaces adjacent to provide outdoor amenity and recreational space, contributions will be secured to enhance these spaces and their recreational value.

The design and general visual impact of the scheme is considered acceptable. The proposed architecture and use of high quality modern materials and soft/hard landscaping will improve the overall appearance of the site and enhance the Conservation Area.

The loss of trees to development on the site is considered acceptable in light of the replacement planting proposed and secured by condition and the contributions to the enhancement of off-site open spaces that would be secured by Section 106 agreement.

There are no other material considerations to warrant refusal of this application subject to an appropriate planning obligation under S106 being entered into. Where the proposal does not accord fully with policies, this is considered to be outweighed by other policies of the development plan and material considerations, which are described in the planning assessment above. Overall the proposed development is considered to be acceptable by officers and sustainable in overall terms.

## **19.0 RECOMMENDATION**

### **A. DELEGATE TO DEPUTY CHIEF EXECUTIVE 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:**

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

All S106 contributions will be index linked from the date of resolution.

And the following conditions (and their reasons) which may be amended:

### **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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Revised Elevations SW Block 08 Drg 821 rev A received 17/11/2020

Revised Elevations NE Block 08 Drg 822 rev A received 17/11/2020

Revised Floor Plans Block 09 Drg 900 rev A received 17/11/2020

Revised Sections Block 09 Drg 910 rev A received 17/11/2020

Revised Elevations Block 09 Drg 920 rev A received 17/11/2020

Boundary Test Sections Sk004 1-3 rev B received 17/11/2020

Boundary Test Sections Sk004 4-5 rev B received 17/11/2020

Boundary Test Sections Sk004 6-8 rev B received 17/11/2020

Boundary Test Sections Sk004 9-10 rev B received 17/11/2020

Revised Street Elevations 020 rev A received 17/11/2020

Revised Street Elevations 021 rev A received 17/11/2020

Updated Revised Softworks Schedule revision C received 4/12/2020

As modified by other conditions of this consent.

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

3) Pre commencement condition: No development related works (except for the demolition and removal of the existing Leisure Centre and Rifle Range buildings) shall take place within the site until a written scheme of archaeological work has been submitted to and approved in writing by the Local Planning Authority. This scheme shall include a programme of archaeological monitoring on-site, and off-site work such as the analysis, publication, and archiving of the results, together with a timetable for completion of each element. All works shall be carried out and completed in accordance with the approved scheme, unless otherwise agreed in writing by the Local Planning Authority.

**Reason for pre commencement condition:** To ensure the appropriate identification, recording and publication of archaeological and historic remains affected by the development. This information is required before development commences to ensure that historic remains are not damaged during the construction process.

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

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

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

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

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

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

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

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

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the LPA. An investigation and updated risk assessment must be undertaken, and where remediation is necessary an updated remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be produced and approved in writing by the LPA.

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

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



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

The CEMP should contain a procedure for handling and investigating complaints as well as provision for regular meetings with appropriate representatives from the Local Authorities during the development works, in order to discuss forthcoming work and its environmental impact.

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

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

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

9) The following additional details shall be submitted to and approved in writing by the Local Planning Authority and the approved details shall subsequently be implemented on site:

- Details of the boundary treatment on the boundary with the rear of properties on Portland Street.
- Details of the arrangement of substation, covered and secure cycle spaces, car parking spaces and landscaping details adjacent the retained Brick Office building.
- Details of works to the Brick Office building.

**Reason:** In the interests of controlling these details which are not submitted in detail as part of the application.

10) Before either of the access points onto Clifton Hill, as indicated on Drawing No. 190908 L 02 02 Rev D, are first brought into use that access shall have been provided in accordance with details and specifications that shall previously have been submitted to, and agreed in writing by, the Local Planning Authority.

**Reason:** To ensure that a safe and suitable access to the site is provided for all users, in accordance with Paragraphs 108/110 of the NPPF and CP9 of the ECC Core Strategy.

11) No part of the development hereby approved shall be brought into its intended use until a club car parking and a club-bike docking station (together with electricity supply to both elements) as indicated on Drawing No. 190908 L 02 02 REV D, or such other location as may subsequently be agreed in writing, has been provided in accordance with details that shall have been submitted to, and approved in writing by, the Local Planning Authority.

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

12) Prior to occupation of the development hereby permitted, a travel pack/car park management plan shall be provided informing all residents of walking and cycling routes and facilities, public transport facilities including bus stops, rail stations and timetables, car sharing schemes and car clubs, as appropriate, the form and content of which shall have previously been approved in writing by the Local Planning Authority.

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

13) Any gates that provide access to rear gardens must be capable of being locked from both sides. All external doors and accessible windows should as a minimum standard comply with the requirements of Approved Document Q (ADQ) of the Building Regulations and/or Secured by Design (SBD) standards as set out in Secured by Design Homes 2019.

**Reason:** In the interests of reducing opportunities for crime.

14) If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

**Reason:** The proposed development site is located on a historic landfill site. This presents a risk of contamination that could be mobilised during construction to pollute controlled waters.

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

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

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

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

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

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

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

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

19) No building hereby permitted shall be occupied until surface water drainage works broadly in accordance with the Preliminary Drainage Strategy (Drawing No. PDL 101 Rev C dated 16.11.2020) have been implemented, and any connection to the Surface Water Sewer having been put in place, in accordance with details that have been submitted to and approved in writing by the local planning authority. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system in accordance with the principles set out in the National Planning Policy Framework, National Planning Policy Guidance and the Department for Environment, Food and Rural Affairs Sustainable Drainage Systems Non statutory technical standards for sustainable drainage systems, and the results of the assessment provided to the local planning authority.

The submitted details shall:

i. provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;

ii. Include a timetable for its implementation; and

iii. Provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

**Reason:** In the interests of sustainable drainage.

20) The development hereby approved shall only be undertaken in accordance with the recommended mitigation measures set out in the Unexploded Ordnance Risk Assessment dated 5th February 2020.

**Reason:** In the interests of human health.

21) Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015, and any Order revoking and re-enacting that Order with or without modification, no development of the types described in the following Classes of Schedule 2 shall be without the express consent in writing of the Local Planning Authority other than those expressly authorised by this permission:-

Part 1, Class A extensions and alterations

Part 1, Classes B and C roof addition or alteration

Part 1, Class E swimming pools and buildings incidental to the enjoyment of the dwellinghouse

**Reason:** In order to protect residential amenity and to prevent overdevelopment.

22) Prior to occupation of the dwellings with which they are associated each of the car parking spaces and garages shown on the approved plans shall be fitted with electrical supply to support an electric vehicle charging point.

**Reason:** In the interests of sustainable development and air quality.

23) The development hereby approved shall be constructed to The Passivhaus Standard, or such other energy and building performance standard that may subsequently be agreed in writing by the Local Planning Authority.

**Reason:** In the interests of sustainable development and to ensure that the development accords with Core Strategy Policy CP15.

24) Prior to the occupation of each dwelling hereby approved, ducting or equivalent service routes should be installed capable of accommodating at least 6 separate fibre-optic cables that enable electronic communications services network suppliers to freely connect between the boundary of the site and the inside of each dwelling for the purposes electronic communications.

**Reason:** To contribute to the development of high speed broadband communication networks and to ensure that adequate provision is made to meet the needs of future occupants of the dwellings for high speed internet access in line with paragraph 42 of the NPPF.

25) The dwellings hereby permitted shall each only be occupied as single unit of accommodation within Use Class C3 (dwelling houses).

**Reason:** For the avoidance of doubt and to prevent the creation of an additional separate dwellings or the occupation as Houses in Multiple Occupation without that being considered by the Local Planning Authority.

26) Prior to commencement of any works on site (excluding demolition of existing buildings) a scheme of off-site replacement tree planting, together with a programme for implementation shall be submitted to and agreed in writing by the Local Planning Authority. The approved scheme shall be implemented in accordance with the approved programme thereafter.

**Reason for the pre-commencement condition:** In the interest of further mitigating the impacts of development on trees and protecting the amenity of the area.

27) The works within the root protection zones of retained trees as part of the development hereby permitted shall only be carried out in accordance with an Arboriculture Method Statement that shall have been submitted to and approved agreed in writing by the Local Planning Authority prior to commencement of development on site. The approved Method Statement shall thereafter be adhered to.

**Reason:** To ensure the protection of the retained trees during the carrying out of the development and protecting the amenity of the area.

## **INFORMATIVES**

1) In accordance with Paragraph 38 of the National Planning Policy Framework the Council has worked in a positive and pro-active way with the Applicant and has negotiated amendments to the application to enable the grant of planning permission.

2) In accordance with Chapters 1 and 2 of the Conservation of Habitats and Species Regulations 2017, this development has been screened in respect of the need for an Appropriate Assessment (AA). Given the nature of the development, it has been concluded that an AA is required in relation to potential impact on the relevant Special Protection Area (SPA), the Exe Estuary, which is a designated European site. This AA has been carried out and concludes that the development is such that it could have an impact primarily associated with recreational activity of future occupants of the development. This impact will be mitigated in line with the South East Devon European Site Mitigation Strategy prepared by Footprint Ecology on behalf of East Devon and Teignbridge District Councils and Exeter City Council (with particular reference to Table 26), which is being funded through a proportion of the Community Infrastructure Levy (CIL) collected in respect of the development being allocated to fund the mitigation strategy. Or, if the development is not liable to pay CIL, to pay the appropriate habitats mitigation contribution through another mechanism (this is likely to be either an undertaking in accordance with s111 of the Local Government Act 1972 or a Unilateral Undertaking).

3) The Local Planning Authority considers that this development will be CIL (Community Infrastructure Levy) liable. Payment will become due following commencement of development. Accordingly your attention is drawn to the need to complete and submit an 'Assumption of Liability' notice to the Local Planning Authority as soon as possible. A copy is available on the Exeter City Council website. It is also drawn to your attention that where a chargeable development is commenced before the Local Authority has received a valid commencement notice (ie where pre-commencement conditions have not been discharged) the Local Authority may impose a surcharge, and the ability to claim any form of relief from the payment of the Levy will be foregone. You must apply for any relief and receive confirmation from the Council before commencing development. For further information please see [www.exeter.gov.uk/cil](http://www.exeter.gov.uk/cil).

4) A legal agreement under Section 106 of the Town and Country Planning Act 1990 relates to this planning permission.

5) Movement of waste off-site - The Environmental Protection (Duty of Care) Regulations 1991 for dealing with waste materials are applicable to any off-site movements of wastes. The code of practice applies to you if you produce, carry, keep, dispose of, treat, import or have control of waste in England or Wales.

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

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

**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 WITHIN 6 MONTHS OF THE DATE OF THIS COMMITTEE 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 Affordable Housing, Open space contributions, highways works, sustainable transport measures and Traffic Orders the proposal is contrary to Exeter Local Development Framework Core Strategy 2012 Objectives 1, 3, 5, 6, and 10, and policies CP5, CP7, CP9, CP10, Exeter Local Plan First Review 1995- 2011 saved policies, L4, T1, T3, DG5, Exeter City Council Affordable Housing Supplementary Planning Document 2014, Exeter City Council Sustainable Transport Supplementary

Planning Document 2013 and Exeter City Council Public Open Space  
Supplementary Planning Document 2005.