

# Planning Committee Report – 20/1187/FUL

- 1.0**
- Application Number:** 20/1187/FUL  
**Applicant name:** Eutopia Homes (Exmouth) Ltd  
**Proposal:** Redevelopment of the site and construction of a part 3, part 5 storey building containing 51 residential units with associated access and servicing arrangements, car parking, landscaping and infrastructure ancillary to the residential use. (*Revised*)  
**Site address:** Exmouth Junction Gateway Site, Prince Charles Road, Exeter  
**Registration Date:** 21/09/2020  
**Link to application:** <http://publicaccess.exeter.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=QGV37DHBJK600>  
**Case Officer:** Matthew Diamond  
**Ward Member(s):** Cllr Jane Begley, Cllr Zion Lights, Cllr Ian Quance

REASON APPLICATION IS GOING TO COMMITTEE – To agree changes to the Planning Committee resolution made on 29 April 2021.

## 2.0 Update

- This application received a resolution to grant planning permission by the Planning Committee on 29 April 2021, subject to the completion of a Section 106 legal agreement and conditions, and subject to agreeing revised plans to include balconies for the relevant 1-bed flats and prior consultation with the Chair of the Planning Committee on this matter. The minutes of the meeting for this item can be viewed via the following link: [20/1187/FUL - 29 April 2021 - Minutes](#).

- The applicant has contested condition 26, which is copied below:

### 26. LEAP

*The development shall not be occupied until a Locally Equipped Area for Play (LEAP) has either been provided on the 'Village Green' as part of the development with a resolution to approve under application number 19/0650/OUT ('Exmouth Junction'), or the details of the LEAP and timing of its delivery have been approved by the Local Planning Authority.*

**Reason:** *To accord with saved Policy DG5 of the Local Plan First Review and the Fields in Trust guidance document 'Guidance for Outdoor Sport and Play – Beyond the Six Acre Standard England' (November 2020).*

- Condition 26 was added in accordance with the comments of the Public & Green Spaces Team taking into account the national guidance document,

'Guidance for Outdoor Sport and Play Beyond the Six Acre Standard England' (Fields in Trust, November 2020). This recommends that developments of 1-200 dwellings provide a LAP and LEAP on-site, or a financial contribution towards the improvement of an existing equipped/designated play space in lieu of on-site provision where existing play space lies within the walking distance guidelines (400 metres in the case of a LEAP). The proposed development for 51 dwellings includes a LAP on-site, but not a LEAP due to its relatively small size. The Public & Green Spaces Team agreed to this on the basis that a new LEAP will be provided on the main Exmouth Junction site, which will be within walking distance of the site, and a condition being imposed prohibiting occupation of the development unless the LEAP had been provided.

- The applicant no longer owns the part of the main Exmouth Junction site where the 'Village Green' is located. They are therefore concerned that the Exmouth Junction Gateway apartment block would not be able to be occupied if the LEAP on the main site was not delivered, and they have no control over the land in question. They have therefore requested that the condition is removed and a clause added to the s106 legal agreement which would allow a financial contribution to be paid to the Council in lieu, if the terms of the condition are not met.
- The Public & Green Spaces Team has agreed a financial contribution of £80,000 with the applicant accordingly, which would be spent on improving existing off-site play areas serving the development. This would only be paid if a LEAP has not been provided on the main Exmouth Junction site before the development is occupied.
- Whilst officers consider condition 26 to comply with the tests for conditions, being a Grampian condition where the infrastructure concerned is considered likely to be delivered during the three year time-limit of the permission, the obligation will also serve to secure this infrastructure, or make improvements to existing infrastructure if it is not delivered for any reason. Therefore removal of condition 26 in favour of an additional obligation in the s106 legal agreement is considered acceptable.
- The revised plans showing balconies for all relevant 1-bed flats have been received. This report and the recommendation have been updated. It should be noted that since the original Planning Committee Report was written the National Planning Policy Framework was revised on 20 July 2021. However, it is not considered to raise any new material considerations that would change the recommendation.
- In addition, the Council can now demonstrate a five year supply of deliverable housing sites with an appropriate buffer. This removes the

automatic application of a presumption in favour of sustainable development (the ‘tilted balance’) in paragraph 11d) of the National Planning Policy Framework (NPPF) 2021. However, this does not change the conclusion of this report that planning permission should be granted.

### 3.0 Summary of Recommendation:

DELEGATE to GRANT permission subject to completion of a S106 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: as set out in Section 19 at end

The proposal is considered to be a sustainable development when balancing the development plan policies, National Planning Policy Framework (NPPF) 2021 policies, including the presumption in favour of sustainable development in paragraph 11, National Planning Practice Guidance (NPPG), and the constraints and opportunities of the site. A s106 legal agreement and conditions are necessary to secure affordable housing, infrastructure contributions and other aspects of the development to make it acceptable in planning terms.

### 5.0 Table of key planning issues

Issue	Conclusion
The Principle of the Proposed Development/Five Year Housing Land Supply	Car-free residential development on this site is acceptable in principle. There are no area based policies which restrict the development of the site for this purpose. The proposal is considered to meet the criteria in Policy L3 (Protection of Open Space). The development will help the Council maintain a 5 year housing land supply. The development will make effective and efficient use of the land.
Affordable Housing	The proposal is for Build to Rent housing. National Planning Practice Guidance states that 20% is generally a suitable benchmark for the level of affordable housing in build to rent schemes. This is a material consideration indicating that in this case 20% should be provided as opposed to 35% in accordance with

<b>Issue</b>	<b>Conclusion</b>
	Policy CP7. 20% of 51 units equates to 10.2 affordable dwellings. A financial contribution of £27,387.65 will be secured to provide 0.2 of a dwelling, which will be spent on the delivery of affordable housing in the city.
Access and Impact on Local Highways	Subject to a £63,750 contribution towards improvements to the E4 strategic cycle route/Stoke Hill roundabout and conditions securing off site highways improvements, including a pedestrian crossing to the supermarket to the south, the access and highways issues are acceptable.
Parking	The development will be car-free except for a disabled parking space and a co-car electric vehicle space. Residents will not be entitled to residents parking permits to park on local roads/streets. Devon County Council are reviewing existing residential parking zones in the area. The level of cycle parking exceeds local standards and includes spaces for family bicycles. It will support the ambition of the city of being net-zero carbon by 2030.
Design and Landscape	The design of the development is considered acceptable. It has been designed as an extension to the main Exmouth Junction development and will act as a 'gateway building' to this development. The site is at a nodal point with generous space around it, therefore the scale, form and massing of the building are appropriate.
Impact on Heritage Assets	The development will not have an impact on any heritage assets.
Residential Amenity	The flats will meet the national space standards. The development does not meet all the recommended open space standards of the Residential Design SPD, however these standards are flexible depending on

<b>Issue</b>	<b>Conclusion</b>
	<p>site analysis and the level of provision is considered acceptable taking into account the site constraints and public open space in the area. Balconies have been provided for all the flats except where they would overhang land not owned by the applicant.</p>
<p>Impact on Amenity of Surroundings</p>	<p>Local residents to the north of the site have raised concerns in this respect, however the separation distances involved are considered sufficient to prevent serious adverse harm to the outlook and privacy of the existing houses, which it should be noted front the site, instead of back onto it. There will be some short term overshadowing of these properties during the mornings in winter, but at no other time. There will also be some short term overshadowing of part of the adjacent allotments during the morning, but the extent varies through the year. In neither case does the extent of overshadowing justify refusal of the application, or a reduction in the scale of the building to the detriment of housing delivery and the good urban design of the area.</p>
<p>Impact on Trees and Biodiversity</p>	<p>There are no trees on the site that will be affected. Tree protection measures should be conditioned to protect trees adjacent to the site during construction. Slowworms and lizards have been found on the site, which are protected species. Mitigation and avoidance measures must be secured by condition. Biodiversity enhancement, such as bat and bird boxes, should also be secured by condition.</p>
<p>Contaminated Land</p>	<p>There is potential for the site to be contaminated and Environmental Health have recommended the full contaminated land condition accordingly.</p>

<b>Issue</b>	<b>Conclusion</b>
Impact on Air Quality	The site is appropriate for residential development taking into account the pollution levels and the development will have a negligible impact on the Air Quality Management Area (AQMA), as a largely car-free development.
Flood Risk and Surface Water Management	The site is in Flood Zone 1 where residential development is appropriate. An attenuated drainage system is proposed. Devon County Council has agreed a pre-commencement condition to deal with surface water drainage on the site.
Sustainable Construction and Energy Conservation	The development will meet the energy requirements of Policy CP15, taking into account National Planning Practice Guidance, through use of Photovoltaic (PV) panels on the roof. The site is not located within or near to a Decentralised Energy Network (DEN) area, so connection is not possible. A Waste Audit Statement will be secured by condition.
CIL/S106	The proposal is CIL liable and will necessitate a s106 legal agreement to secure the obligations set out in the report.

## 6.0 Description of Site

The site comprises vacant land on the corner of the roundabout in front of Morrisons. It is 0.21 hectares in size. It is bounded by Prince Charles Road and the roundabout to the north and east, an access road to the south which leads to the Morrisons car park and the 'Exmouth Junction' housing development site further west, and the Prince Charles Road allotments directly to the west. There is an access stub into the site from a small roundabout opposite the entrance to Morrisons in the southwest corner. The site is covered in semi-improved grassland with small areas of tall ruderal and scrub vegetation around the boundaries. The site is in Pennsylvania ward.

The site is undesignated 'white land' with no area based policies applying to it, as shown on the Exeter Local Plan First Review Proposals Map. It is also undesignated on the Publication Version Development Delivery DPD Proposals Map. The site is in Flood Zone 1, but parts are indicated as susceptible to 1 in 100 year surface water flooding. The only heritage assets in the vicinity are the

St Katherine's Priory Scheduled Ancient Monument to the east of Morrisons, although it is not visible from the site, and the locally listed former water tank building on the 'Exmouth Junction' site. The site is potentially contaminated from its previous use as part of the Exmouth Junction railway yard.

There are bus stops within easy walking distance along Prince Charles Road. This road has been designated by Devon County Council as part of the E3 strategic cycle route. The Morrisons petrol station is about 50 metres to the southwest. To the west of this is an area of land belonging to Network Rail adjoining the railway line. The nearest railway station is Polsloe Bridge to the south, approximately 0.5km walking distance away.

## **7.0 Description of Development**

The proposal is to develop a part 3, part 4, part 5 storey building on the site comprising 51 apartments (26 no. 1-beds, 20 no. 2-beds and 5 no. 3-beds). The apartments will be Build to Rent housing. Vehicular access will be provided from the existing access stub off the roundabout to the southwest. This will lead to a courtyard with two car parking spaces (one disabled parking space and one electric vehicle parking space), and external cycle parking (44 spaces). A small children's play space will also be accessible off the courtyard (41 sq m). There will also be an internal cycle store on the ground floor (90 spaces).

Pedestrian/cycle access will be provided from the south. A second pedestrian access has been added to the northwest corner of the building as part of revisions negotiated by officers. This will provide direct access onto Prince Charles Road, where there are several bus stops. The building will include an internal bin store with capacity for 20 no. 1,100 litre bins, which will be accessed from the courtyard. The building includes a reception/lounge on the ground floor and a rooftop terrace for residents (403 sq m).

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

- Design and Access Statement (Darling Associates Architects, September 2020)
- Planning Statement (Eutopia Homes, September 2020)
- Statement of Community Involvement (Polity Communications, August 2020)
- Energy Strategy (Syntegra Consulting, August 2020)
- Transport Statement (Vectos, August 2020)
- Air Quality Assessment (Syntegra Consulting, August 2020)
- Noise Impact Assessment (Syntegra Consulting, August 2020)
- Ecological Impact Assessment (Burton Reid Associates, August 2020)
- Phase 1 Site Investigation & Preliminary Risk Assessment (Global Services, October 2019)
- Drainage Strategy (Vectos, August 2020)

- Site Waste Management Plan (Syntegra Consulting, August 2020)

#### Additional Information Submitted During Application

- Design Updates (Darling Associates Architects, February 2021)
- Updated Drainage Strategy (Vectos, 24.02.2021)
- W Legal letter re condition 26 (27 May 2021)

### **9.0 Relevant Planning History**

There is no planning history for this site.

### **10.0 List of Constraints**

- Potential contamination
- Part of the site at risk from surface water flooding

### **11.0 Consultations**

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

**Natural England:** This development falls within the 'zone of influence' for the Exe Estuary SPA, as set out in the Local Plan and the South East Devon European Sites Mitigation Strategy (SEDESMS). It is anticipated that new housing development in this area is 'likely to have a significant effect' when considered either alone or in combination, upon the interest features of the SAC/SPA due to the risk of increased recreational pressure caused by that development. Mitigation will be required to prevent such harmful effects from occurring and permission should not be granted until the implementation of these measures has been secured. An appropriate assessment may be necessary in view of the European Site's conservation objectives and in accordance with the Conservation of Habitats and Species Regulations 2017 (as amended). Generic Advice note on Natural England Impacts and Opportunities attached.

**RSPB:** Disappointed by the recommended biodiversity enhancements in the Ecological Impact Assessment. One integral bird box per residential unit should be provided in line with the Residential Design SPD. Swift boxes recommended – particularly effective in blocks of flats and this area is a 'swift hot spot'. Accommodation for bats and bees is also relevant, and should be in addition to the above. These issues should be conditioned.

**Network Rail:** No objection in principle. Asset protection comments: All plant and scaffolding must be positioned, that in the event of failure, it will not fall on to Network Rail land; all roads, paths or ways providing access to any part of the railway undertaker's land shall be kept open at all times during and after the development.

**Devon & Somerset Fire & Rescue Service:** No objections. The following key information will be required as the development progresses:

- B5 access details for fire appliance and firefighters (See Approved Document B)
- Details and drawings of dry riser installation, hose tracking drawings within the building to furthest point
- Fire strategy drawings and details
- Location of nearest fire hydrant

**Police Designing Out Crime Officer:** Access control/compartmentalisation measures condition recommended. CCTV should be considered throughout the development. Management and maintenance policies should be in place with clear responsibilities for residents and prospective management companies.

**South West Water:** No objection. A public sewer crosses the site that will require diversion.

**Devon County Council – Local Education Authority:** A development of up to 25 family type dwellings will generate an additional 6.25 primary pupil and 3.75 secondary pupils, which would have a direct impact on the primary and secondary schools in Exeter. Whilst there is enough spare primary capacity, secondary schools within Exeter are at capacity. Therefore, a secondary education contribution of £88,968 (BCIS index linked) towards new secondary provision at South West Exeter is required, which is based on established educational formulae.

**Devon County Council – Local Highway Authority:**

- This application is in a sustainable location and could be acceptable as a car free development.
- It is essential measures are put in place to give pedestrians and cyclists the best opportunity to reach sustainable infrastructure.
- Improvements have been designed taking into account comments from the Local Highway Authority, however a pedestrian crossing is required across the road to the south to provide safe access to the supermarket.
- There is a pinch point in the shared path that bounds the site to the southeast – the applicant must submit drawings detailing a consistent 3.5m path on this section or confirm in writing why this section is not being improved.
- A contribution of £63,750 is required for improvements to the E4 strategic cycle route/Stoke Hill roundabout.
- A Traffic Regulation Order contribution is not required, as this has been secured under the Exmouth Junction application, unless this development is developed first. The existing residential parking zones are currently

under review and changes to the strategy will ensure residents of this car free development cannot own a vehicle and park on nearby residential streets.

- The level of cycle parking proposed exceeds the standards in the Sustainable Transport SPD and are therefore acceptable.
- The proposed electric car club vehicle is welcomed – further details over the operation should be included within the residential home travel plan. The applicant should liaise directly with the provider to ensure the appropriate connection for the charger is installed.
- A Construction Management Plan should be secured before the development commences by condition. Further conditions recommended.

**Devon County Council – Lead Local Flood Authority:** Objected, as the original Drainage Strategy did not include details of investigations carried out to determine whether a natural SuDS solution is feasible on this site, i.e. infiltration into the ground. However, subsequently agreed to deal with this matter via a pre-commencement condition.

**Devon County Council – Waste Planning Authority:** The Site Waste Management Plan has appropriately identified the type of materials that waste will arise from during construction, demolition and excavation, and relevant mention of the waste hierarchy. However the document is lacking the following:

- The amount of construction, demolition and excavation waste in tonnes.
- Identify targets for the reuse, recycling and recovery for each waste type in more detail.
- The method for auditing the waste produce including a monitoring scheme and corrective measures if failure to meet targets occurs.
- The predicted annual amount of waste (in tonnes) that will be generated once the development is occupied.
- Identify the main types of waste generated when development is occupied (if possible)
- Provide detail of the waste disposal method including the name and location of the waste disposal site.

A comprehensive Waste Audit Statement should be produced following the Waste Management and Infrastructure SPD.

**Place Making Officer:**

Comments on original design before revisions

- The site occupies a prominent location and apart from its western boundary has a well-defined radial perimeter to which the proposed plan form response has not been as sympathetic nor effective in expressing the character of the site in a way that its form and prominence would suggest.

- In addition, it is physically quite separate from the approved Exmouth Junction site to the west the nearest building of which would be more than a 100m away. The proposal site is more closely located to the existing Morrison's supermarket reinforcing the perception that the design of the proposed building need not necessarily follow that of the approved development (notwithstanding that this was of a good standard) but rather strive for a more individual and bespoke building.
- The development site is located at the eastern end of Prince Charles Road the southern side of which has a strongly defined green edge comprising a wide grass verge containing large trees complemented by the dense boundary hedge of the allotments that stretch along the length of the road which is terminated by the proposed site.
- This feature (i.e. verge and sizeable trees) should be continued on the proposed site, particularly as there is no existing building line with which the development could be aligned, to enhance the streetscape, provide more space and a better setting for a new building of this scale on an undeveloped site.
- However, the proposed proximity of the building in relation to the main road (the north-west corner of the building would project about 4 m beyond the southern boundary of the adjoining verge) and the pinch points created by the angular articulation of the building only allows for a narrow strip of irregular width where potentially only very small trees might be planted.
- Communal Open Space: a terrace is proposed on the roof of the 4th floor which raises concerns about whether this would be acceptable in extent, quality, accessibility and security to provide for the needs of the number of residents that would potentially occupy the 51 flats proposed: ECC's residential design guidance indicates that 1020 m<sup>2</sup> of communal open space should be provided rather than 403 m<sup>2</sup> proposed.
- In addition, balconies should be provided for all flats above ground level which is not the case with these proposals.

#### Comments on Design Updates document (Feb 2021)

- 4.1 Ground Level – Landscaping: triangular area adjoining south-east boundary is shown as part of this although not part of the site (no information about soft-or hardworks is provided).
- Similarly, the revised elevation drawings (particularly the Proposed SW Elevation drwg. No. 20001 (03)-E-002 Rev. 02) shows this area including a retaining wall and some indication of greenery as part of the proposals. The elevation drawings and plans should be amended to show the actual proposals.

**Environmental Health:** Recommend approval with conditions: CEMP, contaminated land, noise mitigation, plant noise.

**Service Manager Public & Green Spaces:** Objected originally – the following comments were based on the original design:

- The development is closely linked to the Exmouth Junction development (19/0650/OUT). Therefore, have considered the proposal cumulatively with Exmouth Junction.
- No private or outdoor space is provided, except for a rooftop terrace. The Residential Design SPD advises that 1,020 sq m of open space should be provided.
- A LAP and LEAP should be provided in line with Fields in Trust guidance. Object on the basis of no LAP provision, but satisfied that the LEAP to be delivered on the main Exmouth Junction site will also serve this development – a condition should be added to secure the LEAP before this development is occupied.
- A MUGA should be provided in line with Fields in Trust guidance, however the proximity of Bettysmead playing field (500m) is sufficient to provide an off site facility with similar play value to a MUGA; an appropriate contribution towards the upgrade and maintenance of this playing field is required.

Withdrew objection following the submission of revised plans, which include a LAP on site. Confirmed a contribution of £60,000 is the estimated cost of upgrading and maintaining the nearby playing pitches, and will also allow for the installation of boundary protection.

Agreed removal of condition 26 in favour of an obligation in the s106 legal agreement to prohibit occupation of the development until a LEAP has been provided on the main Exmouth Junction site, or payment of £80,000 in lieu to be spent on improving existing off-site play areas serving the development.

**Waste Collections Manager:** 60 litres per person per fortnight is required for refuse capacity. This should be doubled for recycling. Each bin contains 1,100 litres. Another bin will be required by 2023 for food waste. A glass bin may also be required. Therefore, 20 no. 1,100 litres bins is the minimum required for the bin store.

**Building Control:** Sprinkler systems in accordance with BS 9251 will need to be fitted throughout the building as it has a top storey more than 11m above ground level.

**Exeter Cycling Campaign: Supports** – Supported the original design, noting the sustainable transport aspects of the application and that secure and covered cycle spaces would be provided for residents and visitors. Also noted that the site is ideally located to make use of the E4 cycle route. In regard to the revised design, supports the creation of a second entrance on Prince Charles Road, the increased bike storage and the footpath widening and link to Exmouth Junction.

**Living Options Devon:** In regard to the original design, commented that only Car Club parking spaces were proposed, but no disabled parking. Noted a disabled parking space had been added to the revised plans. Asked if it would be possible to allow undercover space for charging mobility scooters; they also commented that care needs to be taken to make sure sections of the community are not excluded from the Council's ambition of becoming carbon neutral by 2030 – "Many disabled people are also very keen to play their part in helping reduce carbon footprint and energy consumption."

## 12.0 Representations

There were 26 contributors to the application overall. 23 of these objected, 1 was neutral and 1 was in support.

The following issues were raised in the objections:

- The development is too big for the area
- The development is out of character for the area
- Will cause overcrowding
- Limited green space
- Lack of parking will cause problems
- Impact on highways
- The revised plans are little changed – same height and number of flats
- The development will be overbearing and impact the privacy/daylight of nearby residents
- Noise/potential crime from second entrance on Prince Charles Road
- Only one parking space for disabled residents
- Site has history of waterlogging – less flood water will be absorbed
- Lack of tree planting
- Noise pollution from nearby busy roads
- Impact on wildlife
- Access to Morrisons will become busy and dangerous
- Impact on allotments – lack of sunlight
- Pressure on Mount Pleasant Health Centre and nearby schools
- Amenity impacts during construction

One objection was from the Royal Devon and Exeter NHS Foundation Trust unless a s106 contribution of £65,758 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.

The following issues were raised in the neutral response:

- Parking restrictions on local streets should be in place before first occupancy.

The following issues were raised in the representation supporting the development:

- Design is large for the site, but will look appropriate when the rest of the site is complete.
- It's an urban setting – density of housing should be increased in cities.
- Exeter is drowning in traffic, so good to attempts to provide housing that doesn't revolve around the car.
- This is the sort of development Exeter needs – dense, brownfield, sustainable.

### **13.0 Relevant Policies**

#### National Planning Policy and Guidance

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

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

Planning Practice Guidance (PPG):

- Air Quality
- Appropriate assessment
- Build to rent
- Climate change
- Community Infrastructure Levy
- Design: process and tools
- Effective use of land
- Flood risk and coastal change
- Healthy and safe communities
- Housing for older and disabled people
- Housing: optional technical standards

Housing supply and delivery  
Land affected by contamination  
Natural environment  
Noise  
Planning obligations  
Travel Plans, Transport Assessment and Statements  
Use of planning conditions  
Waste

National Design Guide (MHCLG, 2021)  
National Model Design Code (MHCLG, 2021)  
Cycle Infrastructure Design Local Transport Note 1/20 (DfT, July 2020)  
Protected species and development: advice for local planning authorities (Natural England and DEFRA, 7 January 2021)  
Biodiversity duty: public authority duty to have regard to conserving biodiversity (Natural England and DEFRA, 13 October 2014)  
Guidance for Outdoor Sport and Play Beyond the Six Acre Standard England (Fields in Trust, 2020)

#### Development Plan

Core Strategy (Adopted 21 February 2012)

Core Strategy Objectives  
CP1 – Spatial Strategy  
CP4 – Density  
CP5 – Mixed Housing  
CP7 – Affordable Housing  
CP9 – Transport  
CP11 – Pollution  
CP12 – Flood Risk  
CP15 – Sustainable Construction  
CP16 – Green Infrastructure, Landscape and Biodiversity  
CP17 – Design and Local Distinctiveness  
CP18 – Infrastructure

Exeter Local Plan First Review 1995-2011 (Adopted 31 March 2005)

AP1 – Design and Location of Development  
AP2 – Sequential Approach  
H1 – Search Sequence  
H2 – Location Priorities  
H7 – Housing for Disabled People  
L3 – Protection of Open Space  
L4 – Provision of Youth and Adult Play Space in Residential Development  
T1 – Hierarchy of Transport Modes

T2 – Accessibility Criteria  
T3 – Encouraging Use of Sustainable Modes  
LS2 – Ramsar/Special Protection Area  
LS4 – Nature Conservation  
EN2 – Contaminated Land  
EN4 – Flood Risk  
EN5 – Noise  
DG1 – Objectives of Urban Design  
DG2 – Energy Conservation  
DG4 – Residential Layout and Amenity  
DG5 – Provision of Open Space and Children’s Play Areas  
DG6 – Vehicle Circulation and Car Parking in Residential Development  
DG7 – Crime Prevention and Safety

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

W4 – Waste Prevention  
W21 – Making Provision for Waste Management

#### Other Material Considerations

Development Delivery Development Plan Document (Publication Version, July 2015)

DD1 – Sustainable Development  
DD8 – Housing on Unallocated Sites  
DD9 – Accessible, Adaptable and Wheelchair User Dwellings  
DD13 – Residential Amenity  
DD20 – Accessibility and Sustainable Movement  
DD21 – Car and Cycle Parking  
DD25 – Design Principles  
DD26 – Designing out Crime  
DD30 – Green Infrastructure  
DD31 – Biodiversity  
DD34 – Pollution and Contaminated Land

Exeter City Council Supplementary Planning Documents:

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

Devon County Council Supplementary Planning Documents:

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

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 accessible via the Council's website.

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 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 this Act;
- b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

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

- a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;

- b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of 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

- 20% of the dwellings will be affordable private rented (Policy CP7, Chapter 5 and Glossary of NPPF, and PPG advice on Build to Rent)
- £27,387.65 financial contribution for 0.2 of a dwelling towards off-site affordable housing (Policy CP7, Affordable Housing SPD, PPG advice on Build to Rent)
- £88,968 towards secondary education provision (Policy CP18, PPG advice on Planning Obligations, Devon County Council – Local Education Authority consultation response)
- £63,750 towards improvements towards the E4 strategic cycle route/Stoke Hill roundabout (Policies CP9, T1 and T3, Chapter 9 of NPPF, PPG advice on Planning Obligations, Devon County Council – Local Highway Authority consultation response)

- £60,000 towards provision and improvement of off-site playing fields (Policy L4, Public Open Space SPD, Service Manager Public & Green Spaces consultation response)
- £80,000 on improving existing off-site play areas serving the development if a LEAP has not been provided on the main Exmouth Junction site (ref.19/0650/OUT) before occupation of the development (Policy DG5, Public Open Space SPD, Service Manager Public & Green Spaces consultation response)

### 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**

The key issues are:

1. The Principle of the Proposed Development/Five Year Housing land Supply
2. Affordable Housing
3. Access and Impact on Local Highways
4. Parking
5. Design and Landscape
6. Impact on Heritage Assets
7. Residential Amenity
8. Impact on Amenity of Surroundings
9. Impact on Trees and Biodiversity
10. Contaminated Land
11. Impact on Air Quality
12. Flood Risk and Surface Water Management
13. Sustainable Construction and Energy Conservation
14. CIL/S106

## 1. The Principle of the Proposed Development

The principle of developing housing on this site is considered acceptable. There are no area based policies restricting the development of the site. It is considered to be a good site for car-free residential development, given the character of the area and its accessibility to sustainable modes of transport and facilities.

Whilst the site was developed in the past as part of the Exmouth Junction railway yard, it was subsequently cleared and has been left as vacant land. It has been colonised by low level vegetation, but its amenity value is considered limited. Policy L3 protects open space in the city. The policy permits development on open space if: the loss of the open space would not harm the character of the area; the open space does not fulfil a valuable recreational, community, ecological or amenity role; and there is adequate open space in the area. The proposed development of the site is considered to pass these criteria.

The development will deliver 51 new dwellings on a site of 0.207ha. This will achieve a density of 246 dwellings per hectare. This accords with objective 1 of the Core Strategy, Policy CP4 and chapter 11 of the NPPF in terms of making effective and efficient use of land, within acceptable environmental/planning limits.

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.

## 2. Affordable Housing

The development will provide Build to Rent housing. National Planning Practice Guidance (NPPG) on Build to Rent states that 20% is generally a suitable benchmark for the level of affordable private rent homes to be provided (and maintained in perpetuity) in any build to rent scheme. This guidance supersedes Policy CP7, which requires 35% affordable housing. Therefore, 20% of the dwellings should be secured as affordable private rent. This equates to 10.2 dwellings. Therefore, 10 affordable private rent dwellings must be secured and a financial contribution to provide 0.2 of a dwelling, which will be spent on the delivery of affordable housing in the city. The financial contribution equates to £27,387.65.

### 3. Access and Impact on Local Highways

Access to the site is considered acceptable and inclusive. Improvements were negotiated by officers of the Council and Devon County Council, including a second access direct onto Prince Charles Road, to improve access for pedestrians and cyclists. These are shown on the revised plans. However, Devon County Council requires a pedestrian crossing of the road to the south to provide safe access to the supermarket from the site. A condition should be added accordingly. In addition, as a strip of land to the southeast of the site is outside the applicant's ownership, the shared pedestrian/cycle path around the perimeter of the site cannot be increased in width to 3.5m completely, and Devon County Council seeks confirmation for the reason for this, i.e. has the applicant explored this with the land owner?

Devon County Council has requested a £63,750 contribution towards improvements to the E4 strategic cycle route/Stoke Hill roundabout. This has been calculated pro rata with the contribution secured for the Exmouth Junction application. This must be secured in a s106 legal agreement.

A Traffic Regulation Order (TRO) contribution is not required regarding parking restrictions on local roads, provided the TRO contribution for the Exmouth Junction application is paid before the development of this site commences. The s106 legal agreement will need to be worded accordingly.

### 4. Parking

As stated above, the development has been designed as a car-free scheme. Apart from a disabled parking space and a co-car electric vehicle space, no car parking will be provided on site and residents will not be entitled to residents parking permits on local roads. The site is considered by planning and highways officers to be appropriate for car-free development given the opportunities for sustainable travel in the area. This is consistent with the Exmouth Junction main development, which has been designed as a low-car scheme. The development will support the ambition of the city to be net-zero carbon by 2030.

As part of the design revisions, officers encouraged the developers to provide more cycle parking, including family bicycles. Accordingly, an internal cycle store is proposed with capacity for 90 bicycles. External cycle parking is also proposed for a total of 42 bicycles and 8 family bicycles. This exceeds the cycle parking standards in the Sustainable Transport SPD, which require a minimum of 56 spaces for residents and one or two spaces for ad hoc callers.

One of the main concerns regarding the development raised by local residents is the lack of car parking provision. The feeling is that residents will park on local roads to the detriment of their capacity and function. However, this will be mitigated by placing residents parking restrictions on local roads and informing

residents of the development that they will not be entitled to residents parking permits before they move in. Therefore, they will be aware that they are moving into a car-free development. This should attract people who genuinely wish to live in a car-free development over others who wish to own a car.

## 5. Design and Landscape

The development has been designed following the same architectural principles of the main Exmouth Junction development to the west. Spatially the site is slightly separate from the main site, on the corner of the Prince Charles Road roundabout. The Place Making Officer suggested that this could have led to a different architectural approach to the main site, however the developers have chosen to design it to fit into the character of the main site. They have referred to it as the 'gateway' to the main site. This is considered an appropriate design choice, as whilst slightly separate, it is still sufficiently near to the main site to be 'read' as part of that overall development. It will also provide a 'landmark' building on a key nodal point that will form the entrance to the main Exmouth Junction development. The design is considered to be high quality.

One of the main concerns raised by local residents is the scale of the building and the fact that it will not be in keeping with the predominantly 2-storey housing to the north. The design of the building steps up from 3-storeys facing Prince Charles Road, to 4-storeys and then 5-storeys on the corner of the site facing Morrisons. This scale and stepping up of the building are considered acceptable and appropriate given the opportunity to provide a 'landmark' building at a key nodal point and the space around the building, which is generous. As explained above, it has been designed to fit into the character of the main Exmouth Junction development; the site was originally part of the Exmouth Junction railway yard, so the design reflects its history and connection to the main site.

The size and shape of the site leaves little space for soft landscaping. However, the revised plans have included space for soft landscaping in front of the main entrance and adjacent to the parking area, as well as around the northeast edge of the site. A condition for a detailed landscaping scheme should be added, including details of boundary treatments.

## 6. Impact on Heritage Assets

As mentioned in Section 6.0 above, the only heritage assets in the vicinity are the St Katherine's Priory Scheduled Ancient Monument to the east of Morrisons and the locally listed former water tank building on the 'Exmouth Junction' development site to the west. Neither of these assets will be affected by the proposed development.

## 7. Residential Amenity

All of the flats have been designed to meet the national space standards. In terms of the private open space standards applicable to flats in the Residential Design SPD, all the ground floor flats except one have private sitting out space. This is due to the developer not owning the strip of land to the southeast, which one of the flats faces. Following the submission of revised plans, all of the flats on the floors above have balconies, except for three 1-bed flats that face southeast, where balconies would overhang the land not owned by the applicant. As mentioned by the Place Making Officer, the development will not include the recommended total communal open space provision of 1,020 sq m – the rooftop terrace, which the guide says can be counted, and the LAP total 444 sq m. However, it should be remembered that the standards are flexible according to site analysis (paragraph 7.2) and it's difficult to see how additional open space could be included without undermining other aspects of the design. Therefore, the residential amenity of the development is considered acceptable.

## 8. Impact on Amenity of Surroundings

Some concerns have been raised by local residents living in the houses to the north of the site that the development will have an overbearing impact and will impact on their privacy and daylight. However, given the separation distances that will exist between the properties (35-40 metres) and fact that the fronts of the existing properties face the site and not the backs, officers do not consider that the impact on the outlook/privacy of these properties will be sufficiently adverse to justify refusal of the development or a reduction in its scale. The level of harm will be small compared to other recently approved developments and within comfortable planning guidelines in the opinion of officers.

Shadow diagrams have been provided and show that there will only be some temporary overshadowing of properties during the mornings in winter, and none at other times of the day and year. Likewise there will be some temporary overshadowing of the allotments adjacent to the site during the mornings, although it is fairly limited at most times of the year. Again this is not sufficient to justify refusal of the application or a reduction in the scale of the building, which would be to the detriment of housing delivery in the city and the sustainability principle of making effective use of land in order to help combat climate change.

A Noise Impact Assessment was submitted. Environmental Health have recommended a condition to ensure that the mitigation and ventilation standards in the report are implemented in full and maintained, unless alternative measures are agreed.

## 9. Impact on Trees and Biodiversity

There are no trees on the site. There is a tree adjacent to the site to the northwest adjacent to Prince Charles Road and a condition should be added to ensure that it is protected during the construction phase.

The Ecological Impact Assessment confirms that a medium population of slowworm and a low population of Common Lizard are present on the site, which are protected species. Apart from birds, the surveys carried out by the developer have produced no evidence of other protected species using the site. The Ecological Impact Assessment includes measures to mitigate and avoid the harm that would be caused by the development to the protected species, and conditions should be added accordingly. The report includes a section on biodiversity enhancement. This includes bat and bird nesting provision, and invertebrate-friendly planting. The RSPB commented that more could be done, in particular more integral bird boxes should be provided in accordance with the Residential Design SPD. This should be conditioned.

With reference to The Conservation of Habitats and Species Regulations 2017, this development has been screened in respect of the need for an Appropriate Assessment (AA) and given the nature of the development it has been concluded that an AA is required in relation to the potential impact on the Exe Estuary Special Protection Area (SPA). This AA has been carried out and concludes that the development could have an impact in combination with other residential developments primarily associated with recreational activity of future occupants. However, 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 CIL collected in respect of the development being allocated to funding the mitigation strategy.

## 10. Contaminated Land

A Phase 1 Site Investigation & Preliminary Risk Assessment has been submitted, including a desk study and preliminary risk assessment, which concludes that the site might be contaminated. Further investigations are recommended.

Environmental health have recommended the standard full contaminated land condition accordingly.

## 11. Impact on Air Quality

The site is not in close proximity to the Air Quality Management Area (AQMA) and as a car-free residential development, it will have a negligible impact on the AQMA from traffic generation. The submitted Air Quality Assessment confirms that pollution levels are likely to be below recommended limits and the site is

therefore suitable for residential development. No concerns were raised by Environmental Health.

## 12. Flood Risk and Surface Water Management

Policy EN4 does not permit development if it would be at risk of flooding. The site is within Flood Zone 1 and the proposed use is classified as 'more vulnerable' (see PPG). 'More vulnerable' uses are appropriate in Flood Zone 1, therefore the proposal accords with Policy EN4.

Policy CP12 requires all development proposals to mitigate against flood risk utilising SUDS where feasible and practical. The proposed surface water drainage strategy is to build an underground storage tank that will outflow to the public sewer in Prince Charles Road at a controlled runoff rate. Devon County Council originally objected because no evidence was provided to demonstrate whether a natural SuDS system was feasible on the site. However, they subsequently agreed to deal with this matter via a pre-commencement condition.

The site and the adjacent allotments suffer from localised surface flooding. The provision of a sustainable drainage system will prevent the occurrence of this on the site and help to mitigate any impacts to the allotments. The sustainable benefits of the scheme overall, particularly in terms of housing delivery, justify the development of the site in terms of the sequential test.

## 13. Sustainable Construction and Energy Conservation

Policy CP15 requires development proposals to demonstrate how sustainable design and construction methods will be incorporated. An Energy Strategy Report has been provided accordingly. This states that Photovoltaic (PV) panels will be the most suitable renewable technology for the building. These are shown on the Proposed Roof Plan.

Policy CP15 requires residential development to be zero carbon from 2016. However, national Planning Practice Guidance states that local planning authorities can set energy performance standards for new housing that are higher than the building regulations, but only up to the equivalent of Level 4 of the Code for Sustainable Homes. Therefore, this is the standard currently sought in respect of energy and CO2 emissions for residential development within the city.

The Energy Strategy Report states that the development will achieve a carbon saving of 21.49% over Building Regulations Part L 2013. This will meet the policy target of 19%. The standard condition should be added to ensure this is implemented.

Policy CP13 requires new development with a floorspace of at least 1,000 sq m, or comprising 10 or more dwellings, to connect to any existing, or proposed, Decentralised Energy Network (DEN) in the locality. The site is not located within an existing DEN or within one of the proposed DEN areas referred to in emerging Policy DD32, as shown on the Development Delivery DPD Proposals Map.

Policy W4 of the Devon Waste Plan requires planning applications for major development to include a Waste Audit Statement. The Site Waste Management Plan lacks information, therefore it's proposed to add a pre-commencement condition to secure a full Waste Audit Statement in accordance with Devon County Council's Waste Management and Infrastructure SPD (July 2015).

#### 14. CIL/S106

The proposed development is CIL liable, as it is for residential development. The rate for permission granted in 2021 is £118.93 per sq m. This is charged on new floorspace, but does not include social housing provided a claim for social housing relief is made. The CIL liability cannot be calculated at the current time, as the CIL Additional Information Form has not been updated following the submission of revised plans.

The following obligations will be secured in a s106 legal agreement and have been agreed with the applicant:

- 20% of the dwellings will be affordable private rented (10 dwellings) in accordance with the glossary definition of Affordable housing for rent in Annex 2 of the NPPF (2019)
- £27,387.65 financial contribution for 0.2 of a dwelling towards off-site affordable housing
- £88,968 towards secondary education provision
- £63,750 towards improvements towards the E4 strategic cycle route/Stoke Hill roundabout
- £60,000 towards provision and improvement of off-site playing fields
- £80,000 on improving existing off-site play areas serving the development if a LEAP has not been provided on the main Exmouth Junction site (ref.19/0650/OUT) before occupation of the development

In accordance with the advice given to Planning Member Working Group in August 2019, the £65,758 contribution requested by the Royal Devon and Exeter NHS Foundation Trust 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 is not considered to comply with the CIL/NPPF tests for obligations and therefore is not sought and has not been agreed. This is consistent with other decisions the Council has made on major residential applications where similar requests have been made by the NHS

Foundation Trust and also appeal decisions where the contribution has been challenged by developers and Inspectors have not included it.

## **18.0 Conclusion**

The proposed development is considered to be acceptable. It has been designed as an extension to the Exmouth Junction development site that was granted planning permission on 21 May 2021. It will be a car-free development, which is considered acceptable for the site by the Local Highway Authority. It will therefore support the ambition of the city to be net-zero carbon by 2030. The design and scale of the building are considered to be acceptable. It will follow the same architectural approach as the main Exmouth Junction development and act as a 'gateway building' to this site. It will make effective and efficient use of the land in accordance with local and national policies. It will help the Council maintain a 5 year housing land supply.

The dwellings will meet the national space standards, although the total communal open space recommended by the Residential Design SPD will not be achieved. The standards are flexible dependent on site analysis and the proposed level of communal open space is considered acceptable given the site constraints and its proximity to the main Exmouth Junction site and public open space in the area. All the flats have balconies/private sitting out space except four, which face onto land not owned by the applicant.

Conditions will be added to address the various technical planning issues, taking into account the reports that have been submitted.

A s106 legal agreement will be necessary to secure the affordable housing requirement and the contributions that have been requested, which are considered necessary for the development to proceed.

## **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:**

- 20% of the dwellings will be affordable private rented (10 dwellings) in accordance with the glossary definition of Affordable housing for rent in Annex 2 of the NPPF (2019)
- £27,387.65 financial contribution for 0.2 of a dwelling towards off-site affordable housing
- £88,968 towards secondary education provision
- £63,750 towards improvements towards the E4 strategic cycle route/Stoke Hill roundabout

- £60,000 towards provision and improvement of off-site playing fields
- £80,000 on improving existing off-site play areas serving the development if a LEAP has not been provided on the main Exmouth Junction site (ref.19/0650/OUT) before occupation of the development

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

And the following conditions:

1. Standard Time Limit – Full Planning Permission

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

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

2. Approved Plans

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

- Site Location Plan (20001 (01)-S-001)
- Proposed Ground Floor Plan (20001 (03)-P-0G0 Rev 03)
- Proposed 1<sup>st</sup> + 2<sup>nd</sup> Floor Plan (20001 (03)-P-001 Rev 04)
- Proposed 3<sup>rd</sup> Floor Plan (20001 (03)-P-003 Rev 04)
- Proposed 4<sup>th</sup> & 5<sup>th</sup> Floor Plan (20001 (03)-P-004 Rev 04)
- Proposed Roof Plan (20001 (03)-P-0R0 Rev 02)
- Proposed SE Elevation (20001 (03)-E-001 Rev 04)
- Proposed SW Elevation (20001 (03)-E-002 Rev 04)
- Proposed West Elevation (20001 (03)-E-003 Rev 04)
- Proposed NE Elevation (20001 (03)-E-004 Rev 04)
- Swept Path Analysis – Large Refuse (VN201674-TR103)
- Indicative Landscaping (20001 (90)-P-0G0 Rev 01)

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

***Pre-commencement Details***

3. Construction and Environmental Management Plan (CEMP)

No development (including ground works) or vegetation clearance works shall take place until a Construction and Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall be prepared in accordance with specifications in clause 10.2 of

BS 42020:2013 (or any superseding British Standard) and shall include the following:

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of “biodiversity protection zones”.
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction.
- d) The location and timing of sensitive works to avoid harm to biodiversity features. This includes the use of protective fences, exclusion barriers and warning signs.
- e) The times during construction when specialist ecologists need to be present on site to monitor works to ensure compliance with the CEMP, and the actions that will be undertaken.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.

The approved CEMP shall be adhered to and implemented throughout the construction period of the development strictly in accordance with the approved details.

**Reason:** To protect the biodiversity of the site including protected species, taking into account the recommendations of the submitted Ecological Impact Assessment. A CEMP is required before any development begins to ensure that appropriate mitigation measures are identified and carried out during the construction phase.

#### 4. Reptile Mitigation Strategy

No development (including ground works) or vegetation clearance works shall take place until a Reptile Mitigation Strategy has been submitted to and approved in writing by the Local Planning Authority. The Strategy shall be carried out by a suitably qualified ecologist and be based on the ecological mitigation and avoidance measures for reptiles contained in the submitted Ecological Impact Assessment (Burton Reid Associates, August 2020). The Strategy shall be adhered to and implemented in full.

**Reason:** To ensure that reptiles on the site will not be harmed by vegetation clearance works or other construction activities. These details are required pre-commencement as specified to ensure that an appropriate strategy is in place to protect reptiles on the site before construction works begin.

#### 5. Contaminated Land

No development shall take place on site until a full investigation of the site has taken place to determine the extent of, and risk posed by, any contamination of the land and the results, together with any remedial works necessary, have been agreed in writing by the Local Planning Authority. The building(s) shall not be

occupied until the approved remedial works have been implemented and a remediation statement submitted to the Local Planning Authority detailing what contamination has been found and how it has been dealt with together with confirmation that no unacceptable risks remain.

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

## 6. Detailed Permanent Surface Water Drainage Scheme

No development hereby permitted shall commence until the following information has been submitted to and approved in writing by the Local Planning Authority:

- a) Soakaway test results in accordance with BRE 365 and groundwater monitoring results in line with Devon County Council groundwater monitoring policy.
- b) Evidence that there is a low risk of groundwater re-emergence downslope of the site from any proposed soakaways or infiltration basins/tanks if infiltration based techniques are to be proposed.
- c) A detailed drainage design should be submitted which encompasses above ground sustainable drainage systems and the use of FEH rainfall data as well as the results of the information submitted in relation to (a) and (b) above.
- d) Detailed proposals for the management of surface water and silt runoff from the site during construction of the development hereby permitted.
- e) Proposals for the adoption and maintenance of the permanent surface water drainage system.
- f) A plan indicating how exceedance flows will be safely managed at the site.
- g) Evidence there is agreement in principle from SWW for the connection into their system.

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

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

## 7. Tree Protection

No materials shall be brought onto the site or any development commenced, until the developer has erected tree protective fencing to protect trees and shrubs on or adjacent to the site 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:** To ensure the protection of the trees/shrubs during the carrying out of the development. This information is required before development commences to protect trees during all stages of the construction process.

#### 8. Construction Method Statement

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

- a) The site access point(s) of all vehicles to the site during the construction phase.
- b) The parking of vehicles of site operatives and visitors.
- c) The areas for loading and unloading plant and materials.
- d) Storage areas of plant and materials used in constructing the development.
- e) The erection and maintenance of security hoarding, if appropriate.
- f) Wheel washing facilities.
- g) Measures monitor and control the emission of dust and dirt during construction (including, but not limited to, the measures recommended in Table 17 of Syntegra Consulting's Air Quality Assessment for Exmouth Junction Gateway, Exeter (date:18/08/2020)).
- h) No burning on site during construction or site preparation works.
- i) Measures to monitor and minimise noise/vibration nuisance to neighbours from plant and machinery.
- j) Construction working hours and deliveries from 8:00 to 18:00 Monday to Friday, 8:00 to 13:00 on Saturdays and at no time on Sundays or Bank Holidays.
- k) No driven piling without prior consent from the Local Planning Authority.

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

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

#### 9. Waste Audit Statement

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

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

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

#### 10. Energy Performance Standard

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

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

#### 11. Bird Nesting Season

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

**Reason:** To protect nesting birds in accordance with saved Policy LS4 of the Exeter Local Plan First Review and paragraphs 174 and 175 of the NPPF (2019).

## 12. Materials

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

**Reason:** In the interests of good design and the character of the area, in accordance with Policy CP17 of the Core Strategy, Policy DG1 of the Exeter Local Plan First Review and paragraph 127 of the NPPF (2019).

## 13. Nesting and Roosting Boxes

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

**Reason:** To enhance biodiversity on the site in accordance with the Residential Design Guide SPD (Appendix 2) and paragraph 175 of the NPPF (2019).

## 14. External Lighting

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

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

## 15. Details of Building Services Plant

Prior to installation, details of all building services plant shall be submitted to and approved in writing by the Local Planning Authority. The details shall include location, design (including any compound) and noise specification. The plant shall not exceed 5dB below the existing background noise level at the site boundary. If the plant exceeds this level, mitigation measures shall be provided to achieve this in accordance with details previously submitted to and approved in writing by the Local Planning Authority. (All measurements shall be made in accordance with BS 4142:2014).

**Reason:** In the interests of residential amenity.

### ***Pre-occupation***

#### 16. Detailed Landscaping Scheme

Prior to the occupation of any dwelling hereby permitted, a Detailed Landscaping Scheme for the site shall be submitted to and approved in writing by the Local Planning Authority. The Scheme shall include details of hard and soft landscaping, including all boundary treatments. The soft landscaping shall take into account the recommended ecological enhancements in the submitted Ecological Impact Assessment (Burton Reid Associates, August 2020). The hard landscaping shall be constructed as approved prior to the occupation of the development. The soft landscaping shall be planted in the first planting season following the occupation of the development or completion of the development, whichever is the sooner, or in earlier planting seasons wherever practicable, and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

**Reason:** In the interests of good design in accordance with saved Policy DG1 of the Exeter Local Plan First Review and paragraphs 127 and 174 of the NPPF (2019).

#### 17. Landscape and Ecological Management Plan (LEMP)

Prior to the first occupation or use of the development hereby permitted, a Landscape and Ecological Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. The content of the LEMP shall be prepared in accordance with the specifications in clause 11.1 of BS 42020:2013 (or any superseding British Standard) and shall include the following:

- a) Description and evaluation of features to be managed.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.

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

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

All post-construction site management shall be undertaken in accordance with the LEMP.

**Reason:** In the interests of biodiversity and good design in accordance with Policy CP16 of the Core Strategy, saved Policies LS4 and DG1 of the Local Plan First Review and paragraphs 127 and 175 of the NPPF. Also taking into account the recommendations of the submitted Ecological Impact Assessment.

#### 18. Noise Mitigation and Ventilation Standards

Prior to occupation of the development, the noise mitigation and ventilation standards set out in Syntegra Consulting's Noise Impact Assessment for Exmouth Junction Gateway, Exeter (date: 18/08/2020) shall be implemented in full. The measures shall be maintained thereafter unless alternative noise mitigation measures are implemented in accordance with details submitted to and approved in writing by the Local Planning Authority, which shall be maintained thereafter.

**Reason:** In the interests of residential amenity.

#### 19. S278 Agreement

The development shall not be occupied or brought into use until a Section 278 Highways Agreement has been entered into in order to secure the necessary works to the public highway. The s278 works shall include a pedestrian crossing of the road to the south of the site adjacent to the pedestrian entrance to the site and the footpath widening to the south. The works shall be implemented prior to the occupation of the development.

**Reason:** In the interests of pedestrian safety and promoting sustainable modes of travel taking into account the desire line between the development and supermarket, in accordance with Policy CP9 of the Core Strategy, saved Policies T1, T3 and DG1(a) of the Exeter Local Plan First Review, and paragraphs 108 and 110 of the NPPF (2019).

#### 20. Vehicle Access

Prior to the occupation of the development hereby permitted, the vehicular access as shown on drawing number 20001 (03)-P-0G0 Rev 03 ('Proposed Ground Floor Plan') shall be provided in accordance with a plan previously submitted to and approved in writing by the Local Planning Authority. The plan shall include visibility splays to protect the users of the shared use pedestrian/cycle path to the south. The vehicular access shall be maintained thereafter and the visibility splays shall be kept free of visual obstructions above 600mm.

**Reason:** To provide a safe and suitable access to the site in accordance with paragraphs 108 and 110 of the NPPF (2019).

#### 21. Cycle Parking

Prior to the occupation of the development hereby permitted, the internal and external cycle parking as shown on the approved plans shall be provided in accordance with details of the cycle parking (type of racks and weather protection) previously submitted to and approved in writing by the Local Planning Authority. The cycle parking shall be maintained at all times thereafter.

**Reason:** To encourage cycling as a sustainable mode of transport in accordance with saved Policy T3 of the Exeter Local Plan First Review and the Sustainable Transport Supplementary Planning Document (March 2013).

#### 22. Car Parking

Prior to the occupation of the development hereby permitted, the disabled car parking space and the EV Car Club space as shown on drawing number 20001 (03)-P-0G0 Rev 03 ('Proposed Ground Floor Plan') shall be provided. The EV Car Club space shall be provided in accordance with details of the vehicle charging point and car club, i.e. who the operator will be and how it will be managed, previously submitted to and approved in writing by the Local Planning Authority. These facilities shall be maintained at all times thereafter unless otherwise agreed in writing with the Local Planning Authority.

**Reason:** To ensure the disabled parking space and EV Car Club space are delivered and available for residents of the development in the interests of sustainable travel.

#### 23. Travel Plan

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

**Reason:** To encourage travel by sustainable means, in accordance with saved Policy T3 of the Local Plan First Review and the Sustainable Transport SPD.

#### 24. Travel Pack

Prior to the occupation of any dwelling in the development on a continuing basis, a travel pack shall be provided to the future resident(s) of the dwelling informing them of the car-free status of the development and that they will not be entitled to residents parking permits to park on local streets, and the walking and cycling routes and facilities, public transport facilities including bus stops, rail stations and timetables, car clubs and electric bike hire facilities available in the area, the form and content of which will have previously been submitted to and approved in writing by the Local Planning Authority.

**Reason:** To ensure that all residents of the development are aware of its car free status and the available sustainable travel options.

#### 25. Play Space

Prior to the occupation of the development hereby permitted, the Play Space as shown on drawing number 20001 (03)-P-0G0 Rev 03 ('Proposed Ground Floor Plan') shall be provided in accordance with details of the play equipment previously submitted to and approved in writing by the Local Planning Authority. The play equipment and Place Space shall be maintained at all times thereafter. The Play Space shall be accessible at all times except for times when the play equipment is being maintained or replaced from damage or general wear and tear.

**Reason:** To ensure the play space is delivered and available for residents of the development in the interests of residential amenity.

### **B) REFUSE PERMISSION FOR THE REASONS SET OUT BELOW IF THE LEGAL AGREEMENT UNDER SECTION 106 OF THE TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED) IS NOT COMPLETED BY 11 NOVEMBER 2021 OR SUCH EXTENDED TIME AS AGREED BY THE CITY DEVELOPMENT MANAGER**

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

- 20% of the dwellings will be affordable private rented (10 dwellings) in accordance with the glossary definition of Affordable housing for rent in Annex 2 of the NPPF (2019)
- £27,387.65 financial contribution for 0.2 of a dwelling towards off-site affordable housing
- £88,968 towards secondary education provision

- £63,750 towards improvements towards the E4 strategic cycle route/Stoke Hill roundabout
- £60,000 towards provision and improvement of off-site playing fields
- £80,000 on improving existing off-site play areas serving the development if a LEAP has not been provided on the main Exmouth Junction site (ref.19/0650/OUT) before occupation of the development

the proposal is contrary to Exeter Local Development Framework Core Strategy 2012 Objectives 1, 3, 5, 6 and 10, and policies CP7, CP9, CP10, CP16 and CP18, Exeter Local Plan First Review 1995-2011 saved policies L4, T1, T3, LS2 and LS3, 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.