

# Planning Committee Report 21/0020/OUT

## 1.0 Application information

<b>Number:</b>	21/0020/OUT
<b>Applicant Name:</b>	Land Promotion Group Ltd
<b>Proposal:</b>	Outline planning application for a residential development of up to 100 dwellings and associated infrastructure (All matters reserved except access) - Revised plans and additional information received.
<b>Site Address:</b>	Land Off Pendragon Road Exeter Devon
<b>Registration Date:</b>	7 January 2021
<b>Link to App:</b>	<a href="#">21/0020/OUT   Outline planning application for a residential development of up to 100 dwellings and associated infrastructure (All matters reserved except access) - Revised plans and additional information received.   Land Off Pendragon Road Exeter Devon</a>
<b>Case Officer:</b>	Matthew Diamond
<b>Ward Member(s):</b>	Cllr Naima Allcock, Cllr Emma Morse, Cllr Ruth Williams

### REASON APPLICATION IS GOING TO COMMITTEE:

The Service Improvement Lead – City Development considers the application to be a significant application that should be determined by the Planning Committee in accordance with the Exeter City Council Constitution.

## 2.0 Summary of recommendation

DELEGATE to REFUSE permission subject to reasons as set out in the report.

## 3.0 Reason for the recommendation: as set out in Section 18 at end

The proposal is contrary to the Adopted Development Plan and is not considered to be a sustainable development when balancing the Development Plan policies, National Planning Policy Framework 2021 (NPPF) 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.

## 4.0 Table of key planning issues

Issue	Conclusion
Impact on Landscape Setting/character and local distinctiveness of the hills to the north of the city	The proposal would harm the character and local distinctiveness of the hills to the north of the City, and the landscape setting of the City. The site is visible in

Issue	Conclusion
	medium and long distance views. The proposed development would breach the natural edge of the City formed by the tree'd hedgebank north of pendragon Road. It would be an incongruous, piecemeal development in the rural landscape. The proposal conflicts with Policy CP16, saved Policy LS1 in so far as it has weight and paragraphs 130 c) and 174 a) b) of the NPPF.
Loss of Open Space	The proposal conflicts with saved Policy L3 and paragraph 99 of the NPPF because replacement open space of equivalent quantity and quality would not be secured to compensate for the loss of open space to built development on the site.
Access and Impact on Local Highways	Comments are awaited from Devon County Council as Local Highway Authority on the revised access plans and Stage 1 Road Safety Audit submitted to overcome the Highway Authority's previous objection to the scheme. An update will be provided on the Additional Information Update Sheet. A s106 contribution of £325,000 is sought to mitigate the impact of traffic generated by the development on Beacon Lane. This would be spent on the mitigation measures in the Pinhoe Area Access Strategy.
Affordable Housing	The applicant increased their offer of affordable housing from 35% (policy compliant) to 50% in February 2022. Subject to agreeing the tenure split taking into account Exeter City Council First Homes Planning Policy Statement (June 2021), this level of provision is acceptable and a sustainability benefit.
Design	Notwithstanding the landscape and open space issues, the proposed number of dwellings is realistic. No parameters plans have been provided,

Issue	Conclusion
	<p>however the development should be restricted by condition to the areas shown on the illustrative layout to secure green buffers around the edge of the site and to keep the upper parts of the site free from development. The proposal conflicts with saved Policy DG1 c) as it would not integrate into the existing landscape of the City, including natural features and ecology, with regards to the impact of the access roads on the tree'd hedgebank/SNCI along the southern site boundary.</p>
Impact on Trees	<p>Despite the loss of a number of good quality, healthy trees, the Tree Manager considers the removals regrettable, but acceptable subject to a significantly robust tree planting scheme that could be secured by condition.</p>
Impact on Biodiversity	<p>Overall the proposal is considered to harm biodiversity and would conflict with Policy CP16 and saved Policy LS4 by harming the SNCI through the south of the site – the nature conservation interests are considered to outweigh the need for housing in this location. Additional and updated ecological surveys should be secured by condition if the development is approved, as well as a CEMP and LEMP. A HRA screening and Appropriate Assessment have been carried out.</p>
Contaminated Land	<p>There is potential for land contamination from past use of the site and surroundings for landfill. A full contaminated land investigation should be conditioned if the development is approved.</p>
Archaeology	<p>There is potential for below-ground archaeological deposits. The archaeological recording condition should be added accordingly if the</p>

Issue	Conclusion
	application is granted permission.
Impact on Air Quality	The proposed development would have a negligible impact on air quality. However, measures are proposed to reduce emissions. A Construction Method Statement should be conditioned.
Flood Risk and Surface Water Management	The site is not at risk from fluvial flooding. The Proposed Drainage Strategy includes SuDS features in accordance with Policy CP12. Devon County Council as Lead Local Flood Authority withdrew their objection, but have been reconsulted, as the revised access plans conflict with the Proposed Drainage Strategy in terms of the location of a pedestrian cycle path in the southwest corner of the site and a drainage basin in the same location.
Sustainable Construction and Energy Conservation	The standard condition will be added to ensure compliance with Policy CP15, taking into account national Planning Practice Guidance, if the application is approved. The site is not located within or near to a Decentralised Energy Network (DEN) area, so connection is not possible. A complete 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 if the application is approved.
Development Plan, Material Considerations and Presumption in Favour of Sustainable Development	The proposed development does not accord with the Development Plan being in conflict with Policies CP16 and CP18 (if the necessary infrastructure obligations are not secured), and saved Policies H1, L3, LS4, DG1 and LS1 (in so far as it carries weight). The tilted balance in the presumption in favour of sustainable development in paragraph 11 d) of the NPPF applies, as the Council does not currently have a 5 year housing land supply, although the

Issue	Conclusion
	<p>shortfall is modest. However, it's considered that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits of the scheme when assessed against the policies in the NPPF taken as a whole. The provision of 50% affordable housing is a social sustainability benefit that weighs in favour of the application, however this does not outweigh the significant harm to the character of the landscape in this area and to the biodiversity value of the site.</p>

## 5.0 Description of site

The site comprises two semi-improved grassland fields to the north of Pendragon Road. The site area is 6.78ha. The fields are bounded by mature hedgebanks with trees to the north, south and west, and woodland to the east. A hedgerow with trees divides the two fields in a northwest-southeast direction, with an approximately 2 metre wide gap in the hedgerow on the upper part of the site providing access between them. Vehicular access is proposed in two places from/to Pendragon Road through the tree'd hedgebank to the south into each field. This hedgebank and the grass verge next to Pendragon Road are owned by the City Council. The hedgebank and southern part of the site form part of a Site of Nature Conservation Importance (SNCI) according to the Council's GIS system. The site is sloping/undulating with the topography rising to the northwest and towards the hedgerow dividing the fields in the middle of the site. There are long distance views across the City and the landscape beyond, including the Exe Estuary, from the middle to upper parts of the two fields. The Cathedral towers can be glimpsed between the boundary trees from the west field. The site is within Mincinglake and Whipton Ward.

To the west of the site is Mile Lane, a publicly accessible track running north to south. It can be accessed from the western end of Pendragon Road and has pedestrian connections into Mincinglake Valley Park directly to the west. The Valley Park is a public park managed by Devon Wildlife Trust. Part of it was created from a former waste tip that was capped in the 1970s. It has a rural character and the land rises to the north becoming quite steep. The northern area to the west of the site is designated as a County Wildlife Site (CWS) ('Mincinglake Plantation'). There are long distance views from this part of the park. The park as a whole and Mile Lane are formally designated as Valley Park and as a SNCI.

North of the site are further grassland fields, known locally as 'Drake's Meadow'. The northwest corner of these fields and the fields adjoining Mincinglake Valley Park to

the north and west are currently proposed for a development of up to 150 dwellings, with a community hub and associated infrastructure (ref. 21/1291/OUT). Beyond this is further countryside.

Paragraph 2.3 of the Planning Statement (February 2022) states that the site boundary is lined with hedgerow and trees, and all boundaries currently feature hedgebanks. However, the east boundary runs through an area of woodland next to a watercourse and flood basin to the south. The land slopes down towards the watercourse and rises on the other side. There are grassland fields beyond the woodland on the sloping land to the east. The first of these fields and the woodland are designated as a Valley Park and County Wildlife Site (CWS) ('Savoy Hill'); they are also a SNCI.

To the south is Pendragon Road running parallel with the site boundary. It connects with King Arthurs Road to the west and Lancelot Road to the east. These roads run perpendicular to Pendragon Road and provide access to Beacon Lane to the southeast. There is a bus stop about half way along Pendragon Road. To the south is housing and the Pendragon Road Play Area.

The two fields on the site are publicly accessible. There are two pedestrian connections from Pendragon Road into each field. There are two pedestrian connections into the west field from Mile Lane in the southwest and northwest corners of the field. A footpath connects the southeast corner of the east field through the Valley Park woodland to the footpaths connecting Pendragon Road, Savoy Hill and Chancellors Way. Another footpath connects the northeast corner of the east field to the adjoining field to the north ('Drakes Meadow'), although it crosses a broken fence. There are informal paths/walking tracks around the edge of the fields connecting to the various access points. Another informal path goes through the middle of the east field from the gap in the hedgerow to the northeast corner of the field. These paths/tracks are visible on-site and in aerial imagery. None of the paths or connections are formalised, but for the majority they appear well-worn. Officers observed walkers/dog walkers using them on site visits.

Since the application was submitted, the land owner has attempted to place temporary barriers/fencing at some of the access points. These include the access points from Pendragon Road and the access from Mile Lane into the southwest corner of the site. These barriers/fences have fallen over and do not prevent access at these points at the current time.

The site is unallocated. It lies within the Landscape Setting area shown on the Core Strategy Key Diagram (page 99) and on the Proposals Map of the Local Plan First Review. The southern part of the site and hedgebank to the south are part of an SNCI. The woodland on the site to the east is part of a Valley Park, CWS and SNCI. The site is in Flood Zone 1. There are no above ground heritage assets either on or in the vicinity of the site. None of the trees have Tree Preservation Orders. The site is

part of the North Exeter Wooded Hills and Meadows 'Habitat Reservoir' shown on Figure 4 of the Green Infrastructure Study (April 2009) and Figure 3 of the Green Infrastructure Strategy – Phase II (December 2009). The site has been put forward as a potential development site in the new Local Plan being prepared.

## **6.0 Description of development**

The proposal is to develop up to 100 dwellings on the site with associated infrastructure. The application has been submitted in outline with all matters reserved except access. No parameters plans have been provided. An illustrative layout drawing has been provided indicating 64 dwellings constructed on the west field and 36 dwellings constructed on the east field. The housing is shown set within the site away from the field boundaries with green buffers in-between. Public open space is indicated on the upper parts of the site to the north of the housing. Four Local Areas for Play (LAPs) are also indicated.

The access plans show two access points into the site from Pendragon Road for vehicles and pedestrians. Another pedestrian/cycle access is proposed from/to Mile Lane in the southwest corner of the site where there is an existing informal access. 5.5 metre wide roads with 2 metre wide footways on either side lead from the access points into each field. A 3 metre wide shared use path for pedestrians and cyclists connects the two roads across the south of the site and continues on to the pedestrian/cycle access in the southwest corner. This path passes through the hedgerow dividing the fields.

In February 2022 the applicant offered to provide 50% of the dwellings as affordable housing, whereas previously the offer was 35% in accordance with Policy CP7.

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

- Walsingham Planning Cover Letter (18 December 2020)
- Design and Access Statement (December 2020)
- Planning Statement (December 2020) – SUPERSEDED
- Heritage Statement (November 2020)
- Transport Statement (November 2020)
- Geo-Environmental Desk Study (August 2020)

### Additional Information Submitted During Application

- Tree Survey (November 2020)
- Arboricultural Impact Assessment (January 2021)
- Tree Constraints Plan
- Tree Impact Assessment Plan
- Ecological Impact Assessment (March 2021)
- Flood Risk Assessment Rev P1 (March 2021) – SUPERSEDED
- Landscape and Visual Impact Assessment Rev A (July 2021)

- Green Infrastructure Statement
- Sustainability Statement
- Waste Audit Statement (August 2021)
- Ecological Addendum (July 2021)
- Air Quality Assessment (August 2021)
- Planning Statement (February 2022)
- Road Safety Audit (November 2021)
- Flood Risk Assessment Rev P2 (September 2021)
- Impermeable Area Plan (1550 0120 P2) (06.10.21)
- JRC Drainage Calculations (06.10.2021)

## 8.0 Relevant planning history

There is no relevant planning history for the site.

## 9.0 List of constraints

- The site is located within the Landscape Setting area
- The woodland on the eastern part of the site is part of a Valley Park and County Wildlife Site (CWS) ('Savoy Hill')
- The woodland on the eastern part of the site, the lower part of the site and the tree'd hedgebank to the south are a Site of Nature Conservation Interest (SNCI)
- Mile Lane adjoining the site to the west is designated part of a Valley Park and a SNCI
- Mincinglake Valley Park to the west is a CWS and SNCI
- Potential land contamination
- Potential archaeological deposits

## 10.0 Consultations

Below is a summary of the consultee responses. All consultee responses can be viewed in full on the Council's website.

**Environment Agency:** No objection, subject to conditions for investigation and remediation of contaminated land, and for dealing with unsuspected contamination, due to the potential for land contamination from past use of the site and surroundings for landfilling purposes.

**Natural England:** Commented initially that a financial contribution per dwelling in line with the South East Devon European Sites Mitigation Strategy (SEDEMS) is required to mitigate the adverse effects on the integrity of the Exe Estuary SPA/Ramsar site and the interest features for which the Exe Estuary SSSI has been notified, and the Council must undertake a Habitats Regulations Assessment and Appropriate Assessment prior to determining the application. Further information is required to determine the impacts on protected species and priority habitats. The proposal does not appear to be within or within the setting of nationally designated landscape. The



decision should be guided by local landscape character studies, such as the Exeter Fringes Landscape Capacity Study 2007, and policies. The site is a habitat reservoir in the investment programmes of the Exeter Area and East Devon Growth Point Green Infrastructure Strategy – Phase II (Figure 3). The ecological appraisal should assess the site in this regard. The advice of Devon Wildlife Trust should be obtained on this. No ecological surveys or reports provided. The application should assess the impact of all phases of the proposal on protected species (including, for example, dormice, reptiles, birds, badgers and bats). The planning application should thoroughly assess the impact of the proposals on habitats and/or species listed as ‘Habitats and Species of Principal Importance’ within the England Biodiversity List, published under the requirements of S41 of the Natural Environment and Rural Communities (NERC) Act 2006, which includes any hedgerows affected by the proposals. A Phase 2 habitat survey should be carried out. In addition, ornithological, botanical and invertebrate surveys should be carried out at appropriate times in the year, to establish whether any scarce or priority species are present. The development should seek to avoid adverse impact on sensitive areas for wildlife within the site and provide opportunities for overall wildlife gain. We advise that in accordance with the revised National Planning Policy Framework (NPPF) 2018, paras 170 & 174 and the Exeter Development Delivery Development Plan Document policy DD31, opportunities to achieve a measurable net gain for biodiversity should be sought through the delivery of this development. Note however this metric does not change existing protected site requirements.

Following the submission of additional information, stated that a Habitats Regulations Assessment and Appropriate Assessment are required. Mitigation measures should be secured via appropriate conditions or an obligation. Regard should be had for paragraph 174 of the NPPF and landscape policies in the development plan regarding the impact on landscape. Continue to advise that the site is a habitat reservoir in the Green Infrastructure Strategy – Phase II and should be assessed in this regard. Note that Biodiversity Metric 2.0 was updated to Biodiversity Metric 3.0 in July 2021. Biodiversity net gain does not replace existing legal or licensing habitat or species requirements and should not be applied to compensate for impacts on irreplaceable habitat features. If BNG forms part of the decision-making process, the metric spreadsheet should be requested and checked. Mandatory net gain will require all BNG sites to be secured for at least 30 years and appropriate management/monitoring during that period. Note the requested survey information has now been submitted. Refer to Standing Advice for impacts on protected species.

**RSPB:** Commented initially that no ecological assessment information had been provided with the application nor information on how tree'd hedges will be adequately protected and appropriately managed, and without this information it is not possible to assess how the proposed development can meet the Government's commitment to ensure that all new developments will deliver net gain for biodiversity. Linnets were noted in the south east corner of the site. The proposal must be assessed against Local Plan First Review policies LS1 and LS4. The application proposes an area of public open space, but no information on what this will be (habitat types etc.) and

how it will be managed (including adequate secured funding relating to establishment and ongoing management) is provided. Habitats mitigation will be required with respect to European sites if the application is granted.

Following the submission of additional information, stated that the proposal in Section 5.44 of the Ecological Impact Assessment (March 2021) to incorporate bird boxes on retained trees, woodland and new buildings in proximity to suitable foraging habitats does not comply with the Residential Design SPD or best practice recommending an average of one integral bird box per dwelling with additional provision for bats, solitary bees and hedgehog highways. The LEMP proposed by GE Consulting should include the above and be conditioned. Agree with the addition of suitable bird, bat and dormice boxes fixed to mature trees would be appropriate, but unlike the built-in features they will have a limited lifespan – if conditioned an agreement for their ongoing maintenance required.

**Devon & Somerset Fire & Rescue Service:** The revised illustrative layout would appear (without prejudice) not to satisfy the criteria required for B5 access under the Building Regulations. Access for a pumping appliance should be provided within 45m of all points inside the dwelling house. Consideration should be given for the provision of fire hydrants for this development at the design stage.

**Police Designing Out Crime Officer:** Initially commented that detailed design should consider the principles of Crime Prevention Through Environmental Design and Secured by Design. Designing out crime and disorder and crime prevention should be referenced in any future Design and Access Statement Addendum. Appreciate layout is illustrative, but proposed accessible space to the rear of residential back gardens is not supported, as this has proven to increase the risk of crime and anti-social behaviour. Boundary treatments to front of dwellings are important to create defensible space. Treatments for side and rear boundaries of plots should be adequately secure. The illustrative masterplan shows a lack of such defensible space/buffers, which would not be supported at detailed design. Suitable boundary treatments that prevent vehicular access to public open space needs to be considered. Such areas should be afforded good natural surveillance opportunities with clear management and maintenance strategies in place. Pedestrian routes through the development must be clearly defined, wide, well overlooked and well-lit. Planting immediately abutting such paths should generally be avoided. The illustrative layout appears to show some recreational pedestrian routes running to the rear of properties and lacking surveillance which would not be supported. Appropriate lighting for pathways, gates and parking areas must be considered. From a crime prevention point of view, parking in locked garages or on hard standing within the dwelling boundary is preferred. Where communal parking areas are utilised, bays should be in small groups, close and adjacent to homes in view of active rooms. Large rear parking courts are discouraged.

Following the submission of a revised illustrative layout drawing, provided an additional comment that more detailed design should ensure that Local Areas of Play are afforded sufficient surveillance opportunities from nearby dwellings. Care should be taken to ensure that a lone dwelling will not be adversely affected by the location of such space.

**NHS Devon Clinical Commissioning Group:** S106 contribution of £547 per dwelling sought to mitigate the impact on local healthcare facilities – Whipton Surgery, Mount Pleasant Health Centre, Pinhoe and Broadclyst Surgery and ISCA Medical Practice. This is in accordance with 'Devon Health Contributions Approach: GP Provision' agreed by NHS England and Devon County Council.

**South West Water:** Clean potable water and foul sewerage services can be provided. Surface water run-off should be discharged as high up the drainage hierarchy as is reasonably practicable (with evidence that the Run-off Destination Hierarchy has been addresses, and reasoning as to why any preferred disposal route is not reasonably practicable). The method proposed to discharge into a surface water sewerage network at the proposed attenuated rates of 2.3 l/sec for Network 1 (western area) and 1.2 l/sec (eastern area) is acceptable and meets with the Run-off Destination Hierarchy.

**Exeter International Airport:** The amendments have been examined from an Aerodrome Safeguarding aspect and do not appear to conflict with safeguarding criteria. Accordingly, Exeter Airport have no safeguarding objections to the amended development provided there are no changes made to the current application.

**Devon County Council – Local Highway Authority: Objects –** The Transport Statement estimates daily movements for each access point will be in the region of 250 with 18 peak hour movements. This would equate to a two-way peak hour vehicular trip rate of 0.36, which is very low for an edge of city development and considered unlikely. 0.5-0.6 is expected equating to 50-60 additional peak hour movements. Additional traffic will load onto Beacon Lane. To be acceptable in highway terms, a s106 contribution of £325,000 is required towards the mitigation measures in the Pinhoe Area Access Strategy.

The application proposes the removal of the existing chicane feature at the eastern end of Pendragon Road to provide access to the site. Alternative measures would be needed to enforce the 20mph speed limit on Pendragon Road. Whilst visibility standards have been met, the highway authority will need to see a Stage 1 Road Safety Audit at this stage to determine the acceptability of the access points.

A bus stop is conveniently located on Pendragon Road. There should be a footway connection to it from the western junction. Provision should also be made for a footway/cycleway link between the development and Mincinglake Valley Park. Upon a site visit the gradient of the site was raised as an initial concern. To discourage the

use of the private vehicle and to meet the sustainable mantra as advocated in the NPPF, a contribution towards local walking and cycling measures as outlined above would be expected.

The applicant states “parking will be provided at 2 spaces per house” which is contrary to Local Plan Policy T10, which states development proposals should comply with a maximum of 1.5 spaces per dwelling. As an outline application, these details are reserved for approval at a later stage.

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.

As there will be a need to advertise the extension of a 20mph zone, a TRO will be required. To advertise the changes a further contribution up to £5,000 will be sought through S106.

In conclusion, although the development can be acceptable in highways terms, further information is required to satisfy the highway authority that all of the proposed elements are acceptable.

NB. Revised access plans were submitted in February 2022 and the Local Highway Authority has been re-consulted on these.

**Devon County Council – Lead Local Flood Authority:** Withdrew objection – no in-principle objections, subject to a pre-commencement condition requiring soakaway tests in accordance with BRE 365 and groundwater monitoring, a detailed drainage design based on Flood Risk Assessment P2, and other matters.

**Devon County Council – Local Education Authority:** DCC has forecast that there is enough spare primary capacity to accommodate the number of pupils expected to be generated from this development. However, DCC has forecast that the secondary schools within Exeter are at capacity and therefore a secondary education contribution of £355,875 is sought (based on the DfE new build rate of £23,725 per pupil). The contribution will be used towards new secondary provision at South West Exeter, releasing capacity at existing secondary schools across the city. All contributions will be subject to indexation using BCIS applied from March 2019.

**Devon County Council – Waste Planning Authority:** Within the Waste Audit Statement submitted, the applicant has made a good attempt to consider the targets for the reuse, recycling and recovery of construction waste as well as demonstrating the management of waste in accordance with the waste hierarchy. However, the following points need to be addressed:

- We note that the applicant states it is not possible to provide the amount of construction waste that is likely to arise, however an estimate of this is required to be included to meet policy W4 of the Waste Plan;
- The type of material the waste will arise from during construction, demolition and excavation;
- 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)
- We recognise that during the operational phase, the household waste will be collected by the district. However, we request that the disposal site name and location for the waste produced during the construction phase is also provided.

Devon County Council has published a Waste Management and Infrastructure SPD that provides guidance on the production of Waste Audit Statements. This includes a template set out in Appendix B, a construction, demolition and excavation waste checklist (page 14) and an operational waste checklist (page 17). Following the guidance provided in the SPD will enable the applicant to produce a comprehensive waste audit statement that is in accordance with Policy W4: Waste Prevention of the Devon Waste Plan. This can be found online at:

<https://www.devon.gov.uk/planning/planning-policies/minerals-and-waste-policy/supplementary-planning-document>

We would be grateful if this information could be provided within this statement. However, as this is an outline application, we acknowledge that some of these details are unknown at this stage and therefore may need to be submitted as part of the reserved matters application.

**Local Plans Team:** The proposal is contrary to Policy LS1. The residential proposal does not meet the land use criteria of the policy and, as a result of the direct loss of a green field site in the landscape setting area, would harm the landscape setting of the city. The proposal is also contrary to policy CP16 of the adopted Core Strategy. This policy sets out that various areas, including the hills to the north and northwest of the city (which include the development site), together with Mincinglake Valley Park (adjacent to the site), will be protected. Although there is some provision for public open space made as part of the application, the development of 100 houses in this location would have a negative impact on the character and local distinctiveness of the area which is assessed as being of high landscape sensitivity in the Exeter fringes landscape sensitivity and capacity study.

Although the City Council and the various other Local Planning Authorities in the area are no longer progressing the Greater Exeter Strategic Plan it may be worth noting that the site was included as part of a much larger site option in the GESP 'draft

policies and site options' consultation document. This document is available here: [https://devoncc.sharepoint.com/:b:/s/PublicDocs/Planning/EZ2RQG26HEtHjmCW9TkUUckBwaiyhQID293Gfr-ryFpX\\_w?e=hqiuAN](https://devoncc.sharepoint.com/:b:/s/PublicDocs/Planning/EZ2RQG26HEtHjmCW9TkUUckBwaiyhQID293Gfr-ryFpX_w?e=hqiuAN) (page 144). The document was never subject to consultation and has no planning weight but the assessment did identify the concerns regarding the landscape setting area and the high landscape value of the site.

The site was also submitted through the GESP call for sites in 2017 and was assessed through the HELAA process, the report for which is available here: <https://devoncc.sharepoint.com/:b:/s/PublicDocs/Planning/Eco4flngyeVJtMIN-zc9VY8BplKz0PjXkxmfgD-0FkN69Q?e=GV7jb2> (page 325). Although the high-level *achievability* assessment in the HELAA concluded that the development on the site would be achievable, the *suitability* assessment identified the high landscape sensitivity of the site and its importance as being integral to the wider landscape setting of the city.

**Place Making Officer:** (NB. These comments relate to the original proposal and preceded the submission of further landscape and arboricultural information; the officer left the authority before this further information was submitted. The Landscape comments commissioned from an independent chartered landscape architect are included with this report for Members to take into account):

- The site is an integral part of the hills to the north of Exeter which are of major landscape importance and which contains the urban extent of Exeter, providing a setting for the city as well as a rural backdrop to the existing residential areas to the south-west and south-east.
- The site is a component part of the area included in the Exeter Slopes and Hills as identified by the Devon Landscape Character Area Assessment which is described as having a strongly rural character despite its proximity to Exeter. At a more local level the site is assessed as being part of Landscape Character Type 3A Upper Farmed and Wooded Valley Slopes which identifies more detailed characteristics.
- Development of the site would mean extending residential development beyond the built-up area potentially resulting in a harmful effect on the character and appearance of the area.
- The loss of this farmland would be to the detriment of the wider landscape and the rural character of the area, of which it is an integral part and could create a detrimental precedent resulting in further proposals on the neighbouring land and potentially piecemeal development elsewhere in the area.
- The proposed development of the site would be contrary to Local Plan policy LS1 since it is evidently not reasonably necessary for the purposes of agriculture, forestry, the rural economy or concerned with change of use, conversion or extension of existing buildings.

- Similarly the proposals would be contrary to the core Strategy Policy CP16 which includes protection of the character and local distinctiveness of the hills to the north of Exeter.
- The Exeter Fringes Landscape Sensitivity and Capacity Study identified the site (zone 3) as having a high landscape sensitivity and a low to capacity for housing use.
- No context appraisal or assessment of the site and the proposals in the form of a Landscape and Visual Impact Appraisal is provided that might otherwise provide justification for the proposed development.
- The southern boundary of the proposed site comprises a Site of Nature Conservation Interest (SNCI) which acts as a green corridor linking the SNCI to the north-east with the Mincinglake Valley Park and SNCI to the west. This would be breached in two places by the proposed access road.
- Illustrative Master plan: this suggests that the layout would be generated primarily by the proposed access roads rather than by overarching design concepts and objectives.

**Environmental Health:** Objected initially, due to no Air Quality Assessment. Following the submission of additional information, including an AQA, recommended the following conditions: CEMP, Contaminated Land, air pollution mitigation.

**Public & Green Spaces Team:** (NB. The following comments were based on the original illustrative layout.)

A development of this size would be expected to provide opportunities for play within public open spaces for toddler and junior age groups. Two large areas of Public Open Space are proposed at the northern portion of the site, and the total POS provision looks to exceed our minimum requirements. The Fields in Trust Guidance states that a LAP (10m x 10m, separated from dwellings by at least 5m) should be accessible with 100 metres walk of all dwellings. Sufficient provision in line with FiT guidance is achieved for the majority of the dwellings through the proposed POS to the north, but does not meet the requirement for those dwellings in the south west section. We would expect appropriate provision to be provided in this area to meet the spatial criteria for a LAP, and consider this to be achievable without affecting the viability of the development.

The Fields in Trust Guidance also recommends that a development of this size should provide a LEAP (Local Equipped Area of Play), and that all dwellings should be located within 400m of a LEAP. The outline application does not include details of any equipped on-site play provision. The nearest ECC-owned play area is Pendragon Road Play Area, located some 100-300 metres from proposed dwellings across the relatively low-trafficked Pendragon Road. Given the proximity to the application site and lack of on-site provision, Pendragon Road Play Area will experience extra demand generated by this development. In our view, subject to appropriate investment to mitigate the impacts, Pendragon Road Play Area could

accept the additional demand presented by this development, and reliance on off-site provision is acceptable.

No MUGA is proposed within the development, which is appropriate for a development of this size, and an existing MUGA is present at the Pendragon Road play area. According to the FiT guidance, developments between 10-200 dwellings are recommended to make a contribution towards MUGAs, and we would expect the applicant to make a suitable contribution towards the upgrade and additional maintenance of the nearby Pendragon Road MUGA.

No objection to the proposed development, subject to the agreement of the following:

- Modification of the illustrative layout to ensure that a LAP-standard open space is provided within 100 metres of all proposed dwellings.
- Prior to first occupation, a suitable financial contribution to fund the improvement and additional maintenance of the existing off-site play area at Pendragon Road Play Area, that will be required as a result of additional impact from the development. A value of £370 per bedroom (excluding the first bedroom) is recommended.
- Prior to first occupation, a financial contribution towards the improvement and additional maintenance of Pendragon Road MUGA, that will be required as a result of additional impact from the development. A value of £112 per bedroom (excluding the first bedroom) is recommended.

**Tree Manager:** Comments relate to documents and drawings; *Tree Survey* (ref: TC200702-TreeSurvey-11.2020), *Arboricultural Impact Assessment* (report ref: TC200702-AIA-01.2021), *Tree Impact Assessment* (ref: TC200702-TIAP-01.2021) and *Tree Constraints Plan* (ref: TC200702-TCP-12.2020).

- There are no objections to the proposed access and internal road layout.
- The loss of trees Oak tree **T1 & T2**, along with the removal of Field maple **T3, T4 & T5** and mixed species group **TG6**, is regrettable, but understandable owing to their position at site access points and the requirement to make way for the new development. A significant robust planting scheme is required to mitigate for the loss of these trees.
- Removed trees will need to be replaced with a significantly robust tree planting scheme that is to be approved by the Council's Landscape officer.
- While it is understood that the block plan is indicative, it shows several units that have an unsatisfactory spatial relationship between units and adjacent trees (**TG10**). The Tree Constraints Plan should be used to assist and guide the design process. Owing to the number and quality of trees on and adjacent to the site it will be challenging to achieve the number of units shown on the indicative plan.



**Devon Wildlife Trust: Objects** – Consider that the proposals do not provide sufficient evidence to satisfy the requirements relating to biodiversity in paragraphs 174d, 175d and 180c of the National Planning Policy Framework or the requirements of paragraph 99 of ODPM Circular 06/2005 Biodiversity and Geological Conservation. The comments provided below are based on GE Consulting Ecological Impact Assessment (dated March 2021) and the accompanying addendum (dated July 2021). We consider that insufficient evidence has been provided because –

1. A copy of the full BNG Metric Assessment produced for the site needs to be provided.
2. The report states that the habitats present within the site are suitable for great crested newts in their terrestrial stage. The report states that ‘The closest potentially viable breeding pond (identified on OS Mapping) lies approximately 210m north of the Site’. The report then goes on to make the assertion that ‘the terrestrial habitats available in proximity to the off-site pond (hedgerows rough grassland and woodlands associated with Mincinglake Valley Park) are likely to afford GCN with all their terrestrial habitat requirements’. The notion that great crested newts would not utilise the site because further suitable habitat is available elsewhere is completely unsupported by evidence such as a population size survey, particularly as the paragraph also states that “Existing residential gardens in proximity to the Site could also support suitable breeding ponds”. Further assessment is required to determine presence/absence of great crested newts within all suitable water bodies within a 250m radius of the site.
3. A proportion of Savoy Hill CWS lies within the eastern extent of the site. The report makes reference to the maintenance of suitable buffers within the design and planting scheme, however these are not defined. Figure 1 Biodiversity Net Gain Post-development Plan appears to show proposals for development in close proximity to the CWS. Confirmation is required on proposals for the size of the buffer which will be retained.
4. The report makes reference to the direct loss of 30m of hedgerow habitat, which will be removed from three separate areas of the southern hedgerow. Figure 1 appears to show four breaches within the hedgerow network, including removal of part of the central hedgerow. This will effectively result in the loss of the majority of the southern and part of the central hedgerow for commuting/foraging bats. The extent of habitat loss has not been quantified, and an assessment of the impact of this loss or proposals for subsequent mitigation have not been included within the report. The new hedgerow planting does not mitigate for this loss of habitat in relation to commuting bat species as planting is proposed directly adjacent to existing commuting/foraging habitat.

Furthermore, breaches in the hedgerow network appear to leave trees which have been identified as potential bat roosts isolated from commuting/foraging habitat. This impact has not been considered within the assessment. For the reasons given above, we object to the outline planning application and recommend that it is refused.

**Exeter Civic Society:** (NB. The objection below related to the original submission and no further comments were received from the Civic Society following the submission of additional information during the course of the application.)

**Objects** – The Planning sub-committee find the application inadequate in several respects. An LVIA has not been submitted. An assessment of Landscape Impact is essential for this particularly sensitive high ground which is visible for several kilometres across Exeter, as well as forming a more local view.

The application lacks a Drainage Strategy which we would expect to find for this sloping, uneven and well-watered site.

Although a full survey could not be expected at this stage we consider that the fact that the site closely neighbours the upper fields of Mincinglake Valley Park and so is part of the ecological network in the area merits more than the brief mentions of trees and hedgerows. Recognition of the ecological significance of these fields and those to the north could have been more clearly shown in the application for this significant site.

We trust that this outline application, which lacks information on landscape impact, drainage intentions and ecological implications, and is at present a departure from the City's existing Development Plan, will be refused.

**Exeter Cycling Campaign: Objects** – The amended plans (submitted in February 2022) have been reviewed, including Drg. No. 20106/001/B, but these do not appear to address the concerns raised in our objection dated 5<sup>th</sup> September 2021, so we would like to reiterate our objection:

- The proposals refer to a 'pedestrian/cycle link' to connect the two developments. Exeter Cycling Campaign cannot support plans for a shared footway/cycleway when space is available to provide dedicated infrastructure for both means of transport.
- Exeter City Council's strategic goal to have 50% of journeys undertaken by foot or bike. Item 6.2.1 of the applicant's Transport Statement indicates that 49.2% of trips will be undertaken as a driver of a private car. Without additional infrastructure to support more trips using active travel this target is unlikely to ever be met by this proposed development.
- In item 3.6.1 of the Transport Statement the applicant refers to cycle infrastructure 700m away on Beacon Lane. Getting there via King Arthurs Road or Lancelot Road involves negotiating a street congested with parked vehicles that are often parked on the pavement. Without measures to address this the proposals will fall foul of Exeter City Council's intention to create a connected network of cycle facilities.

- Item 5.5.2 of the Transport Statement indicates that on-street parking is proposed for those visiting by car. At similar developments in Exeter this often results in car-dominated streetscapes to the detriment of active travel. We would like the applicant to consider measures to ensure that this does not happen here.

## 11.0 Representations

The application was advertised twice in January 2021 following its submission and in August 2021 following the submission of a revised illustrative layout and various technical documents. There were 310 contributors comprising 222 objections, 85 in support and 3 neutral.

The issues raised in the objections were:

- The site is used by wildlife
- The site is used for walking/dog walking/recreation
- The site is a beautiful wildlife area
- Concerns regarding access by emergency vehicles due to parking on pavements on roads leading to site
- Old trees will be removed to create access
- Housing not needed
- Impact on infrastructure/local services
- Brownfield sites should be built on
- Impact of more traffic on local/narrow roads
- Green spaces should be retained
- A lot of surface water runoff from fields when it rains/poor drainage
- Land has not been used for agriculture nor horticulture for many decades, never been fencing or gates – public right to roam
- Impact on mental health – loss of open space
- Bus used to be every 10mins, now every 30mins, but frequently don't turn up
- One of only natural places Exeter has left
- Fields should become part of Mincinglake Valley Park
- More traffic – more danger for children
- Not everyone has cars and can travel to find green areas
- Removal of chicane on Pendragon Road would be dangerous near park
- Much valued local space
- Great scenic views
- Provides valuable amenity
- Grew up playing in these fields
- More traffic, more pollution
- Chipping away at precious green space that the community enjoys
- Encroachment of development in spaces such as this, adjacent to well-loved park land and tracks is insidious.
- Visual impact

- Contrary to Policies LS1 and LS4
- Mincinglake Valley Park requires adjacent green spaces to maintain its biodiversity
- Loss as a carbon sink and ecosystem service
- These fields have been accessible by local communities for over 30 years – hold a cultural and emotional significance for local people.
- Trees should have TPOs
- Access points near blind bends
- Urban creep
- Site on a hill – difficult to cycle to, particularly with panniers
- Public transport more expensive than car for most journeys
- Fields should be retained to help fight pollution/global warming
- Seen slow worms in the field
- Should be retained as a wildlife corridor between the two Valley Parks
- Qs. 12 and 13 on application form answered falsely re importance of trees/hedges and biodiversity
- Most of the houses should be affordable
- Impact on traffic/parking in the area
- Planning Statement and Transport Statement say land used for grazing – not seen grazing on land since lived here since 2017 and there are clear openings, so land cannot be used for grazing in any event as not fully closed off.
- Disagree with development – homes already being built at Prince Charles Road and Pinhoe Quarry
- Community heavily relies on fields for social interaction, exercise and walking dogs
- Land has been used for exercise/recreation area for over 20 years
- Would need to drive to other green spaces in city – more pollution
- Fields provide peace and tranquillity for local residents
- Lots of flats in area without access to gardens
- Fields are a wildlife haven (before it was flailed by landowner in last two winters)
- Local roads already damaged
- Fields and trees part of treasured green skyline
- “Green lungs” for city
- Impact on Mile Lane as a bridleway
- Local walk times at 4.7.1 of the Transport Statement are incorrect
- Would destroy soul of neighbourhood
- More fly tipping on Mile Lane
- Impact of light pollution on wildlife
- Noise pollution during construction
- Too hilly for people to use bikes
- The area has been used for educational activities, e.g. wellbeing walks, sensory mapping

- Conflicts with ECC local plans, e.g. The Liveable Exeter Garden City programme
- Land previously used for landfill – potentially contaminated
- Additional flood risk/possible subsidence
- Fields should be preserved to continue green corridor between Mincinglake and Savoy Hill Valley Parks and nearby Stoke Woods
- Should be retained as local nature reserve and “green gym”
- Footfall in Mincinglake Valley Park is very high and it is losing biodiversity
- Site is visible in long-distance views (photographic evidence provided)
- Pendragon Road treeline should be northern boundary of the city
- Piecemeal development
- Used to ride horses in the fields – at no time in last 45 years have known farming in them
- Only one attempt some years ago to use for livestock – failed due to lack of adequate fencing
- Contrary to Policy CP16
- Goes against Council Net Zero plan
- F bus service continues to decline
- There are other sites for housing more suitable
- Affordable housing will not be affordable for local people

An objection was also received from the Royal Devon and Exeter NHS Foundation Trust unless a s106 contribution of £164,293 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 issues raised in the representations supporting the proposed development were:

- Land is in need of developing – unused for many years
- It is not public land – people trespass
- Rubbish/household items are disposed of there
- Number of houses should not be detrimental
- The plans are well laid out with green space all around
- Wildlife will migrate
- The fields are rank and been neglected very badly by the owner for the past 45+ years, so social housing should be a welcome addition
- Not an overdevelopment
- Some greenspace will be retained
- Social housing/starter homes – bonus for area
- Private land – no agricultural work has carried on there for past 40 odd years

- Domestic and gardening waste has been dumped there
- Low cost housing would benefit the area
- Other public green spaces are available nearby for walking – illegal to trespass
- Desperate need for housing in Exeter
- Social housing would be great benefit, especially for young families
- The proposed houses do not fill the site and an abundance of green space for play/recreation would be left
- Prime position for social/shared housing
- Mincinglake Valley Park is available close by
- Traffic difficulties could be resolved
- 100 homes allows plenty of amenity space
- Funding will be provided for local infrastructure/services
- Construction vehicle impacts will be short lived
- Plenty of green space available for wildlife
- Land appears unsuitable for agriculture, therefore should be used for housing
- Suitable for first time buyer homes
- Difficult for young people to get on housing ladder
- Please build some starter homes
- Area not suitable for high grade housing – only type of housing should be social and starter homes
- If the site is not approved suggest Mincinglake Park be developed for housing
- Desperate to get on housing ladder
- Younger generation need to live within the boundary to work in city without too much travelling
- Majority of homes will be low cost starter homes, which are desperately needed
- No need for more community land in area
- Area is not overdeveloped like some parts of the city
- Claims on wildlife are 'wildly' exaggerated
- Drainage will be sorted out
- Will generate Council Tax payments
- Ideal place to build new homes – area desperately needs uplifting
- No problem with access to this land which is most important
- Would be logical extension to existing built-up area
- With ending of Duty to Co-operate, support

The issues raised in the neutral responses were:

- Developers should be obliged to improve cycle and pedestrian access to this development by surfacing Mile Lane up to Stoke Hill Road to make it a decent multi-use path for pedestrians and cyclists and ideally they (or the Council) should provide cycle lanes and footpaths that continue from there up Stoke Hill to allow people to access green space for exercise and relaxation. Ideally such

a walking/cycling route should continue up Mile lane and Stoke Hill Road to join the bridleway that goes back to Rolleston Farm – this would create a wonderful new opportunity for people in Exeter.

- No problem with extending housing estate, but this is a council estate and any extension should be of similar nature – all dwellings should be affordable
- City needs young people who need somewhere to live and thrive

A representation was also received from Exeter Greenspace Group including evidence of public use of the fields for over 30 years comprising testimonials from 12 residents aged between 20 and over 80 and online evidence including maps showing footpaths.

## 12.0 Relevant policies

### National Planning Policy and Guidance

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

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

Planning Practice Guidance (PPG):

- Air Quality
- Appropriate assessment
- Climate change
- Community Infrastructure Levy
- Design: process and tools
- Effective use of land
- First Homes
- Flood risk and coastal change
- Healthy and safe communities
- Historic environment
- Housing for older and disabled people
- Housing supply and delivery

Land affected by contamination  
Light pollution  
Natural environment  
Noise  
Open Space, sports and recreation facilities, public rights of way and local green space  
Planning obligations  
Travel Plans, Transport Assessment and Statements  
Use of planning conditions  
Waste  
Water supply, wastewater and water quality

National Design Guide (MHCLG, 2021)  
National Model Design Code (MHCLG, 2021)  
Manual for Streets (CLG/TfT, 2007)  
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)  
Protected sites and areas: how to review planning applications (DEFRA and Natural England, 5 August 2016)  
Biodiversity duty: public authority duty to have regard to conserving biodiversity (Natural England and DEFRA, 13 October 2014)  
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
- L1 – Valley Parks
- L3 – Protection of Open Space
- L4 – Provision of Playing Pitches
- T1 – Hierarchy of Modes
- T2 – Accessibility Criteria
- T3 – Encouraging Use of Sustainable Modes
- C5 – Archaeology
- LS1 – Landscape Setting
- LS2 – Ramsar/Special Protection Area
- LS3 – Sites of Special Scientific Interest
- LS4 – Nature Conservation
- EN2 – Contaminated Land
- EN3 – Air and Water Quality
- EN4 – Flood Risk
- DG1 – Objectives of Urban Design
- DG5 – Provision of Open Space and Children’s Play Areas

## 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
- DD9 – Accessible, Adaptable and Wheelchair User Dwellings
- DD13 – Residential Amenity
- DD20 – Accessibility and Sustainable Movement
- DD22 – Open Space, Allotments, and Sport and Recreation Provision
- DD25 – Design Principles
- DD29 – Protection of Landscape Setting Areas

DD30 – Green Infrastructure  
DD31 – Biodiversity  
DD33 – Flood Risk  
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 First Homes Planning Policy Statement (June 2021)  
Exeter City Council Annual Infrastructure Funding Statement 2020/21 Report  
Net Zero Exeter 2030 Plan (Exeter City Futures, April 2020)  
Revised Strategic Housing Land Availability Assessment (SHLAA) 2015  
Green Infrastructure Study (April 2009)  
Green Infrastructure Strategy – Phase II (December 2009)  
Exeter Fringes Landscape Sensitivity and Capacity Study (February 2007)  
Archaeology and Development SPG (November 2004)

### **13.0 Human rights**

Article 6 - Right to a fair trial.

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

The first protocol of Article 1 Protection of property

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 individual properties where there may be some adverse impact and this will need to be mitigated as recommended through imposing conditions to ensure that there is no undue impact on the home and family life for occupiers. However, any interference with the right to a private and family life

and home arising from the scheme as 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 the provision of homes, including affordable housing and economic benefits.

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.

#### **14.0 Public sector equalities duty**

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

- a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under 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.

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

### Material considerations

- 50% affordable housing (50 dwellings if 100 dwellings developed)
- Public open space
- £395,000 toward mitigation measures in Pinhoe Area Access Strategy 2019 Addendum
- Up to £5,000 for Traffic Regulation Order
- £355,875 towards new secondary school provision at South West Exeter (£3,558.75 per dwelling).
- £54,720 towards patient space at GP surgeries (£584 per dwelling).
- £370 per bedroom (excluding the first bedroom) to fund the improvement and additional maintenance of the existing off-site play area at Pendragon Road Play Area.
- £112 per bedroom (excluding the first bedroom) towards the improvement and additional maintenance of Pendragon Road MUGA.

### 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 site. This proposal is CIL liable. The rate at which CIL is charged for this development is £80 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 2022 is £118.57.

The proposal will generate council tax.

## 16.0 Planning assessment

The key issues are:

1. Impact on Landscape Setting/character and local distinctiveness of the hills to the north of the city
2. Loss of Open Space
3. Access and Impact on Local Highways
4. Affordable Housing
5. Design
6. Impact on Trees
7. Impact on Biodiversity
8. Contaminated Land
9. Archaeology
10. Impact on Air Quality
11. Flood Risk and Surface Water Management
12. Sustainable Construction and Energy Conservation
13. CIL/S106
14. Development Plan, Material Considerations and Presumption in Favour of Sustainable Development

### 1. Impact on Landscape Setting/character and local distinctiveness of the hills to the north of the city

Saved Policy LS1 states that development which would harm the landscape setting of the city will not be permitted, and proposals should maintain local distinctiveness and character, and be reasonably necessary for the purposes of agriculture, forestry, the rural economy, outdoor recreation or the provision of infrastructure...Any built development associated with outdoor recreation must be essential to the viability of the proposal unless the recreational activity provides sufficient benefit to outweigh any harm to the character and amenity of the area. Policy CP16 states that the character and local distinctiveness of the hills to the north of the city, together with other landscape areas, will be protected and proposals for landscape, recreation, biodiversity and educational enhancement brought forward, in accordance with guidance in the Green Infrastructure Strategy. The Key Diagram in the Core Strategy defines Landscape Setting areas in the city and the site subject of this application is within the Landscape Setting area covering the hills to the north of the city.

Following appeal decisions, it has been determined that saved Policy LS1 is out-of-date. This is because the evidence base it relies on was superseded by the Exeter Fringes Landscape Sensitivity and Capacity Study (2007) ('the Fringes Study') and it is inconsistent with the NPPF (2021). It is inconsistent because it restricts development in the Landscape Setting areas to certain types of development. The part of the policy stating proposals should maintain local distinctiveness and character is not out-of-date, but this has been superseded by Policy CP16 in any case, which seeks to protect the character and distinctiveness of certain areas of the

city. Policy LS1 is therefore afforded limited weight. As confirmed by the Inspector for the most recent appeal decision on the hills to the north of Exeter (appeal ref. APP/Y110/W/20/3265253) ('Land at Pennsylvania Road'), Policy CP16 is not out-of-date and carries full weight.

In terms of the Fringes Study, the site is located within Zone 3 which the document assesses as having high landscape sensitivity and low capacity for housing. The justification for its sensitivity is:

*“Prominent hill and valley sides with high intrinsic sensitivity form strong positive rural backcloth to the city with an important hill fort and Roman station.” (Page 7)*

The justification for having low capacity actually states the area has no capacity for housing:

*“The area has no capacity for housing because of its prominence, rural character and intrinsic sensitivity.” (Page 7)*

The applicant has submitted a Landscape and Visual Appraisal (July 2021) (LVA). It concludes there would be an adverse effect on the landscape character of the site; however, effects would reduce in the medium to long term as new planting matures. It concludes there would be an adverse effect on the Landscape Setting of Exeter, but that would be minimal as the site comprises a very small part of the extensive Landscape Setting area. It states views would be limited to a few local views (under 0.5km). It states there would be enhancement in the site with the implementation of a Landscape Management Plan.

A review of the LVA/proposals has been carried out by a chartered landscape architect on behalf of the Council. This report is appended to this committee report. The report states that the LVA is very scant and in failing to consider landscape value, susceptibility to change and sensitivity to either landscape or visual change, and in not analysing the site in the context of the broader city and landscape setting, does not meet the standards for LVA required by the Landscape Institute, as articulated through Guidelines for Landscape and Visual Impact Assessment Third edition. The LVA is described as not fit for purpose, underplaying the landscape effects of the development, and therefore should not be given weight in the planning decision.

The chartered landscape architect considers the proposals would conflict with Policies LS1, CP16 and DG1 a, b, c, f and h, as well as Paragraphs 130 a, b and c, and 174 of the NPPF. The site has a strong rural character and the development would breach what is a very clearly defined edge to the urban area formed by the tree'd hedgebank north of Pendragon Road and the substantial change in levels

between the road and the site. The levels will require extensive engineering works to form the accesses, consequently the development would not be an organic extension to the urban area, but an incongruous, piecemeal development into the rural hinterland. Contrary to the LVA the site is visible as part of the rural backdrop to the City in long distance views, e.g. from Pynes Hill and land north of Ludwell Lane in Ludwell Valley Park to the south. It is also visible from Savoy Hill Valley Park /CWS to the east. The removal of the trees to form the accesses would open up views into the site from Pendragon Road and cannot be mitigated through tree planting as part of reserved matters, as suggested by the applicant. The trees are healthy and their loss would have a substantial impact on views of and along the existing strong, very clearly defined, urban edge.

It should be noted that the site is very similar to the Land at Pennsylvania Road site: They are both within Zone 3 of the Fringes Study; they are both within the 'Exeter Slopes and Hills Landscape Character Area' in the Devon Landscape Character Assessment (DLCA); both have strong rural characters with undulating landforms; both are adjacent to Valley Parks and County Wildlife Sites; both are visible in long distance views; and, importantly, both lie beyond natural boundaries to the urban area – a tree belt in the case of Land at Pennsylvania Road and the tree'd hedgebank adjacent to Pendragon Road for this site. The appeal for the outline application for up to 26 dwellings at Pennsylvania Road was dismissed, which is a material consideration for this application. If anything, this site is more sensitive given there is limited built development beyond the tree belt in the context of the Land at Pennsylvania Road site, whereas for this site there is none, and this site has Valley Parks and County Wildlife Sites on both sides, east and west. It should also be noted that the Inspector considered the Fringes Study remained relevant.

Officers agree with the chartered landscape architect: The site has a strong rural character and lies beyond the natural urban edge of the City, formed by the tree'd hedgebank adjacent to Pendragon Road. It is visible in long distance views from publicly accessible areas. There are very clear views of the site from the Valley Park and County Wildlife Site to the east, where the development would appear incongruous and highly damaging to the rural landscape. This takes into account the lighting that would be a necessary component of a suburban residential development and likely cut and fill/underbuilding given the sloping topography. The development would also be viewed through the gaps created to form the accesses from Pendragon Road. The interventions to form the accesses would themselves damage the character and local distinctiveness of the tree'd hedgebank and immediate surroundings, which add to the rural character of the area. The development would also be visible through the boundary vegetation from the lower section of Mile Lane, a popular walking route connected to Mincinglake Valley Park, which itself is designated as Valley Park and SNCI.

Therefore, in conclusion, the proposed development is considered to conflict with Policy CP16 and the parts of saved Policy LS1 that remain up-to-date, and this

carries high weight in the overall planning balance. The proposal is also contrary to paragraphs 130 and 174 of the NPPF.

## 2. Loss of Open Space

The site privately owned, but this is different to saying whether the site is public or private in planning terms. Lots of privately owned land is publicly accessible. At the time of writing this report the site is publicly accessible. Attempts have been made to block some of the access points during the application, but not all of them. At the time of writing the temporary barriers that were placed at some of the access points are no longer in place and do not prevent access. It's clear from the representations, as well as historic aerial imagery on the Council's database, that the land has been accessible for many years. The aerial view from 1999 on the Council's database shows access is available from Pendragon Road with footpaths around the edge of the fields.

The definition of open space in the NPPF (2021) is:

*“Open space: All open space of public value, including not just land, but also areas of water (such as rivers, canals, lakes and reservoirs) which offer important opportunities for sport and recreation and can act as a visual amenity.”*

Saved Policy L3 states that development on open space will only be permitted if:

- a) the loss of open space would not harm the character of the area; and
- b) the loss of open space does not fulfil a valuable recreational, community, ecological or amenity role; and
- c) there is adequate open space in the area; OR
- d) the loss of open space is outweighed by its replacement in the area by open space of at least equivalent recreational, community, ecological or amenity value (including, in particular, the provision and enhancement of equipped play space).

This policy is considered broadly consistent with the NPPF and therefore up-to-date. NPPF Paragraph 99 states:

*“Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:*

- a) An assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or*



- b) *The loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or*
- c) *The development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.”*

In terms of the criteria in saved Policy L3, a) is not reflected in paragraph 99 of the NPPF, so is therefore not up-to-date, however it is covered by the discussion under ‘1’ above. In terms of b), the site clearly does provide a valuable recreational, community, ecological and amenity role; this isn’t reflected directly in the NPPF policy, although can be linked to NPPF 99 a). In terms of c), this is unknown as the Council does not have an up-to-date Open Space Audit; c) is consistent with NPPF 99 a). As the proposal cannot satisfy a) – c) of saved Policy L3, it leaves d), which is consistent with NPPF 99 b) – whether replacement open space can be provided in a suitable location.

The applicant has not acknowledged that the land is publicly accessible nor addressed saved policy L3 and NPPF paragraph 99 in their submission. However, in the Draft Heads of Terms appended to the Planning Statement (February 2022), they have offered provision of on-site public open space and green infrastructure and/or an off-site financial contribution as part of a s106 legal agreement. It is assumed that the on-site public open space being offered is the public open space indicated on the northern parts of the fields on the illustrative layout and referred to in paragraph 4.1.5 of the Design and Access Statement. These parts of the fields are the most valuable in offering views of the surrounding landscape, including long distance views of the Exe Estuary. This area plus the LAPs on the illustrative layout is approximately 12,335 sq m (1.23ha). It excludes the green buffers around the edge of the development. These total approximately 7,499 sq m (0.75ha).

The built area shown on the illustrative layout is approximately 25,667 sq m (2.57ha). Saved Policy L3 requires replacement open space of at least equivalent recreational, community, ecological or amenity value. NPPF 99 requires replacement open space of equivalent or better provision in terms of quantity and quality. As can be seen the public open space offered is smaller than the area that would be lost to built development. Paragraph 5.2.1 of the Ecological Impact Assessment states that the northern extents of both fields will be retained and included as an area of Public Open Space incorporating new habitat creation. It states *‘The loss of poor semi-improved grassland habitats will be compensated for through the creation of new high quality habitats including scrub and wildflower grassland habitats within the retained areas.’* At paragraph 5.2.2 it states *‘New scrub planting will be included in the north east of the Site to provide a buffer and protection to areas of existing woodland. The woodland habitats to the east will be retained and enhanced with significant buffers to built development and strategic planting to prevent creation of informal accesses.’* This may therefore reduce some of the area that is publicly accessible.

On balance, officers consider that the public open space offered in the Draft Heads of Terms, assuming it is that shown on the illustrative layout, does not satisfactorily compensate for the loss of open space in terms of quantity and quality, as required by saved Policy L3 and paragraph 99 of the NPPF. This takes into account that the amenity value of the retained open space at the top of the site would be adversely affected by views of the new housing in the foreground, harming the rural character of the area.

### 3. Access and Impact on Local Highways

Devon County Council as Local Highway Authority objected to the application requesting revisions to the access plans and a Stage 1 Road Safety Audit (RSA). Revised plans and an RSA were submitted, and at the time of writing the Highway Authority has not responded to a reconsultation in this regard. An update will be provided on the Additional Information Update Sheet.

It should be noted that the 3m wide shared cycle pedestrian facility in the southwest corner of the site is not consistent with the Proposed Drainage Strategy (Dwg. No. 1550 0500 P2) appended to the Flood Risk Assessment Rev P2, which shows an attenuation basin in this part of the site.

In terms of impact on local highways, comments are awaited from the Highway Authority on the removal of the chicane feature on Pendragon Road to slow traffic in order to form the eastern access. To mitigate the impact of traffic generated by the proposed development on Beacon Lane, a financial contribution of £325,000 is required towards the mitigation measures in the Pinhoe Area Access Strategy. This must be secured in a s106 legal agreement.

### 4. Affordable Housing

In February 2022, the applicant increased their offer of affordable housing from the policy compliant level of 35% to 50%. Appendix 1 of the Planning Statement (February 2022) states a tenure split of 70% social rented and 30% intermediate or as near as economically viable will be provided.

Subject to agreeing the tenure split taking into account Exeter City Council First Homes Planning Policy Statement (June 2021), the provision of affordable housing would be acceptable. The increase in affordable housing above the level required by Policy CP7 is a sustainability benefit of the scheme. The affordable housing would need to be secured in a s106 legal agreement.

## 5. Design

The net density of the housing on the western field in accordance with the illustrative layout would be 40 dwellings per hectare and on the eastern field would be 41 dwellings per hectare. This is similar to the existing housing to the south – the net density of the block between Pendragon Road, King Arthur's Road, Avalon Close and Lancelot Road, discounting the play area, is 38 dwellings per hectare.

Saved Policy DG5 requires family housing proposals to provide 10% of the gross development area as 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 and quality to serve the development. 10% of the gross development area is 0.678ha. The total public open space on the illustrative layout, including the buffers around the edge, is 1.98ha, although some of this space might not be useable, due to biodiversity plantings and attenuation ponds within this area. Nevertheless, it's considered that the proposed development would be able to comply with this policy.

The analysis above demonstrates that the proposed number of dwellings is realistic for the site, notwithstanding officers' views regarding landscape impacts and loss of open space (see 1 and 2 above). Whilst no parameter plans have been provided, should the application be approved, it's considered that a condition should be added restricting the developed areas to those shown on the illustrative layout. This would ensure that buffers are provided between the development and the tree'd hedgebanks/hedgerows around and in the site, and will ensure that the higher parts of the site are kept free from development. The layout at reserved matters would also need to show the development outside the root protection areas of trees, unless this is agreed by the Council for specific reasons. The height of the dwellings should also be conditioned to be 2 storeys or less to minimise harm to the character/distinctiveness of the area.

Saved Policy DG1 requires development to ensure that schemes are integrated into the existing landscape of the City including its three-dimensional shape, natural features and ecology. Paragraph 130 c) of the NPPF states decisions should ensure that developments are sympathetic to local character and history, including the surrounding built development and landscape setting, while not preventing or discouraging appropriate innovation or change. Paragraph 4.4 (III) of the Residential Design SPD states *'The design and layout of new residential development will protect and enhance biodiversity on the site, and enhance connections between ecological features within and across the site. Existing areas and features of biodiversity value should be incorporated into the design and layout and wherever reasonably possible enhanced.'* It's considered that the formation of the two access from Pendragon Road across the grassed verge and through the tree'd hedgebank to the south of the site, which is designated a SNCI, would be contrary to these policies/guidance. The tree'd hedgebank is a high quality natural feature forming a clear boundary between the

urban area to the south and rural area to the north, and has high biodiversity value as part of the network of hedgebanks/hedgerows that contribute to the Exeter Slopes and Hills Landscape Character Area. It should be protected accordingly.

## 6. Impact on Trees

The Arboricultural Impact Assessment states trees T3, T4 and T5, and parts of tree groups 6 and 7 within the tree'd hedgebank to the south would need to be removed to form the accesses from Pendragon Road. However, trees T1 and T2 are also likely to be removed, due to their proximity to the western access. The Tree Impact Assessment Plan does not show the 3m wide shared cycle pedestrian facility through the hedgerow through the middle of the site as shown on the Highway Access plan, therefore it's likely that part of tree group 10 would also need to be removed.

T1 and T2 are mature and early mature Oaks of 16 and 17 metres respectively. T3, T4 and T5 are young/semi-mature Field maples on the grass verge, 6, 5 and 7 metres in height respectively. Tree group 6 comprises semi mature and early mature Turkey oak, Ash and Field maple trees up to 15 metres in height. Tree groups 7 and 10 comprise largely mature Oak trees and are described as high value features in the Tree Survey.

The Council's Tree Manager considers the removals regrettable, but acceptable subject to a significantly robust tree planting scheme. This could be conditioned. NB. This does not undermine the conclusions under 1 and 5 above.

## 7. Impact on Biodiversity

The site is part of the North Exeter Wooded Hills and Meadows 'Habitat Reservoir' shown on Figure 4 of the Green Infrastructure Study (April 2009) and Figure 3 of the Green Infrastructure Strategy – Phase II (December 2009). The southern part of the site and the tree'd hedgebank are also part of a SNCI. The site is therefore part of a wildlife corridor between Mincinglake County Wildlife Site to the west and Savoy Hill County Wildlife Site to the east. As discussed under 5 above, it's considered that the access roads would harm the landscape and ecological value of the tree'd hedgebank to the south and it should be protected. Devon Wildlife Trust have also commented that the extent of habitat loss in this regard has not been quantified and an assessment of the impact of this loss or proposals for subsequent mitigation have not been included in the Ecological Impact Assessment. The new hedgerow planting does not mitigate for this loss of habitat in relation to commuting bat species as planting is proposed directly adjacent to existing commuting/foraging habitat.

Protected species surveys were carried out for bats. At least 11 bat species use the site for foraging and commuting. The Ecological Impact Assessment states a key aim for the proposed development will be to maintain connectivity through the site. This

will allow bats to move between potential roost sites to the south and areas of good foraging habitat to the north, east and west. The buffer areas will be retained as 'dark zones'. A sensitive lighting strategy will be required. Five trees were identified as offering potential to support roosting bats. Two of these are within the tree'd hedgebank to the south in close proximity to the western access. The view of officers is that the gaps formed by the removal of sections of hedgebank and trees, and the street lights associated with the roads and car headlights are likely to have an adverse impact on the tree'd hedgebank in terms of its value to bats for commuting and roosting, as well as other wildlife.

Protected species surveys were also carried out for dormice and reptiles. No dormouse nests or other evidence of dormice were recorded on the site. Small populations of slow worm and lizard were recorded. Mitigation measures are identified accordingly and should be conditioned if the application is approved. However, the surveys were carried out between April and May 2021. Natural England Standing Advice states reptiles should be surveyed from April to mid-October. Further survey work should therefore be carried out in line with national guidance.

The Ecological Impact Assessment states common amphibians are likely to be present, although the potential for great crested newts is considered extremely low. No surveys have been provided for these species. The report suggests mitigation where further details will be provided in a LEMP. Devon Wildlife Trust considers further assessment is required to determine the presence/absence of great crested newts within all suitable water bodies within a 250m radius of the site.

Despite there being evidence of badgers using the site for foraging, commuting and dispersal purposes, a badger survey was not carried out. The Ecological Impact Assessment includes precautionary measures.

The Ecological Impact Assessment states invertebrates will be impacted at site level through the removal of grassland and minor sections of hedgerow. No surveys for invertebrates were submitted. However compensation and enhancement measures are provided in the report.

Natural England Standing Advice recommends full surveys are carried out for protected species if there is evidence they might be on or using sites. However, developers may not need to provide a detailed survey if they are able to show that protected species are unlikely to be affected even if they are on or near a development site. In exceptional circumstances, additional surveys can be conditioned. In this case, should the application be approved, it's considered appropriate to condition additional and updated ecological surveys to check whether species are still present and that the proposed mitigation is still appropriate. The Standing Advice states this is important for outline applications.

A Biodiversity Net Gain Assessment has been carried out stating there will be a 12.95% net gain in habitat units and 12.71% net gain in hedgerow units. The proposals are shown in Figure 2 of the Ecological Impact Assessment and include 80m of new hedgerow in the northeast corner of the site bordering the existing woodland in this part of the site. It does not appear to connect with existing hedgerow to the south. Given some survey work has not been carried out meaning a firm ecological baseline is missing and landscaping is a reserved matter, limited weight should be given to the biodiversity net gain assessment.

Overall, the proposal is considered to harm biodiversity. It would have a significant impact on the tree'd hedgebank to the south within a SNCI through the formation of the access points removing sections of hedgebank and trees. It therefore conflicts with Policy CP16, which protects the biodiversity value of sites of local conservation importance including SNCIs. It also conflicts with saved Policy LS4, which only permits harm to a SNCI or wildlife corridors if the need for the development is sufficient to outweigh nature conservation considerations, and the extent of any damaging impact is kept to a minimum and appropriate mitigation and compensation are implemented. The development is not needed in this location and does not outweigh the nature conservation benefits of the site. The development also conflicts with NPPF paragraph 174 d) – *'decisions should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures'*.

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.

## 8. Contaminated Land

The Geo-Environmental Desk Study states the site may have been used for landfilling purposes and is recorded as an historic local authority landfill. An extensive area of landfilling has been recorded to the west. Contamination may therefore be present on the site posing an unacceptable risk to future site users. Both the Environment Agency and Environmental Health recommend the full contaminated

land condition accordingly, as well as the condition for dealing with unsuspected contamination.

### 9. Archaeology

The Heritage Statement states that the site is situated within a landscape in which there is known evidence for prehistoric and Roman occupation. There is therefore considered to be unknown potential for previously unknown below-ground archaeological deposits of these dates to be present and the site is considered to have some topographic potential for both prehistoric burials in the form of ring ditches around former barrows and later prehistoric/Romano-British settlement. There is also potential for below-ground archaeological deposits relating to former land division recorded on historic maps to survive as infilled ditches beneath the current ground surface within the site.

The standard condition requiring a written scheme of archaeological work and its implementation should therefore be added should the application be approved.

### 10. Impact on Air Quality

The site is not within or in close proximity to the Air Quality Management Area. The Air Quality Assessment recommends dust mitigation during the construction stage. The standard condition for a Construction Method Statement should be added if the application is approved accordingly. The reports states that traffic generation from the development would have a negligible impact on NO<sub>2</sub> and PM concentrations at sensitive receptors. Notwithstanding, it states that the proposals will incorporate the following measures to help reduce operational emissions and ensure a sustainable development:

- Rapid charge electric vehicle charging points
- All gas fired boilers would meet a minimum standard of <40 mgNO<sub>x</sub>/kWh
- Designated parking space on site to be utilised by a local car share scheme
- Provision of a covered location for electric bike hire
- A travel plan

Overall, the proposal would not harm air quality and therefore does not conflict with Policies CP11 or EN3.

### 11. Flood Risk and Surface Water Management

Policy EN4 does not permit development if it would be at risk of flooding. The development 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 revised Flood Risk Assessment includes a Proposed Drainage Strategy incorporating above ground basins. This was confirmed as acceptable by Devon County Council as Lead Local Flood Authority, subject to a pre-commencement condition for soakaway testing and a detailed drainage design, along with other matters. However, the Lead Local Flood Authority has been reconsulted following the submission of revised highway access plans showing a 3m wide shared cycle pedestrian facility in the southwest corner of the site where a drainage basin is shown on the Proposed Drainage Strategy. An update will be provided on the Additional Information Update Sheet.

## 12. Sustainable Construction and Energy Conservation

Policy CP15 requires development proposals to demonstrate how sustainable design and construction methods will be incorporated. The Sustainability Statement states improved design and construction measures will be considered at reserved matters, such as: fabric first approach; orientation and solar gain; locating windows at heights to allow solar penetration in winter and installing shading features to prevent overheating in summer; passive ventilation; and water recycling measures.

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. If the application is approved, the standard conditions should be added accordingly.

Policy CP13 requires developments with 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. A Waste Audit Statement was submitted, but the Waste Planning Authority requested more information. If the application is approved, a pre-commencement condition should be added for a complete Waste Audit Statement accordingly.



### 13. CIL/S106

The proposed development is CIL liable, as it is for residential development. The rate for permission granted in 2022 is £118.57 per sq m. This is charged on new floorspace, but does not include social housing provided a claim for social housing relief is made. As the application is outline, the CIL liability cannot be calculated until reserved matters details are submitted.

If the application is approved, the following obligations should be secured in a s106 legal agreement:

- 50% affordable housing (at least 25% First Homes, 70% social rented and the remaining balance as intermediate).
- Public open space, including LAPs indicated on illustrative layout.
- Management company to manage/maintain public open space on the site including LAPs.
- £395,000 toward mitigation measures in Pinhoe Area Access Strategy 2019 Addendum.
- Up to £5,000 for Traffic Regulation Order.
- £3,558.75 per dwelling towards new secondary school provision at South West Exeter.
- £584 per dwelling towards patient space at GP surgeries.
- £370 per bedroom (excluding the first bedroom) to fund the improvement and additional maintenance of the existing off-site play area at Pendragon Road Play Area.
- £112 per bedroom (excluding the first bedroom) towards the improvement and additional maintenance of Pendragon Road MUGA.

In accordance with the advice given to Planning Member Working Group in August 2019, the £164,293 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 at the current time.

### 14. Development Plan, Material Considerations and Presumption in Favour of Sustainable Development

The application is not considered to accord with the Development Plan as a whole. It is considered to conflict with Policies CP16 and CP18 (if the obligations in 13 above are not secured), and saved Policies H1, L3, LS4, DG1 and LS1 (in so far as it carries weight).

As confirmed by the Land at Pennsylvania Road appeal, the Council does not have a 5 year housing land supply. It has a supply of 4.8 years, i.e. a shortfall of 220 dwellings. This was described as a modest shortfall by the Inspector and it should be noted that additional residential permissions have been granted since the appeal was determined. However, the tilted balance set out within paragraph 11 d) of the NPPF is engaged. This pushes the decision towards granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. In this case, the adverse impacts are considered to significantly and demonstrably outweigh the benefits, taking into account the NPPF policies, which was also the case for the Land at Pennsylvania Road appeal.

The main sustainability benefit of the application is the delivery of affordable housing to meet local needs. The applicant increased the offer of affordable housing from 35% (policy compliant) to 50% in February 2022. This indicates that the applicant did not consider that the application was acceptable with the policy compliant level of affordable housing, taking into account the adverse impacts. If the maximum number of dwellings applied for were constructed, 50 would be affordable dwellings, 15 more than the policy compliant level. This is a material consideration that carries moderate-high weight in the overall planning balance. However, it is not considered significant enough to outweigh the significant landscape and environmental harm that would be caused by the development on this site in the Landscape Setting area. Accordingly the application should be refused.

## **17.0 Conclusion**

The proposed development would harm the character and local distinctiveness of the hills to the north of the City, which form a rural backdrop to the City, and would breach the natural edge of the City formed by the tree'd hedgebank and change in levels north of Pendragon Road. The development would be visible from publicly accessible areas in Ludwell Valley Park to the south and Savoy Hill Valley Park to the east, as well as other parts of the City, damaging the landscape setting of the City and views of the rural landscape. It would also be visible through the gaps in the hedgebank that would be created to form the access roads into the site and through the vegetation from the lower section of Mile Lane, harming the character of Mile Lane which is within a Valley Park and SNCI. The removal of sections of hedgebank and trees to form the accesses would harm the SNCI along the southern boundary of the site, which acts as a wildlife corridor together with the rest of the site between Mincinglake County Wildlife Site to the west and Savoy Hill County Wildlife Site to the east. The tree'd hedgebank is a natural feature in its own right that should be protected for its landscape and ecological value in the public realm.

Furthermore, the land is currently and has historically been used by the public for informal recreation, therefore replacement open space of equivalent quantity and quality should be provided in accordance with saved Policy L3 and paragraph 99 of the NPPF. The Public Open Space indicated on the illustrative layout does not satisfactorily compensate for the loss of open space in terms of quantity or quality.

The applicant has increased their offer of affordable housing from 35% (policy compliant) to 50%. This indicates a recognition by the applicant of the adverse impacts. The provision of up to 50 affordable dwellings on the site is a sustainability benefit that weighs in favour of the application, however it does not outweigh the significant harm that would be caused by the development to the character of the landscape in this part of the City and to the biodiversity value of the site.

## **18.0 Recommendation**

REFUSE PERMISSION for the following reasons:

1. The proposed development conflicts with Policy CP16 of the Exeter Core Strategy and saved Policies H1 and LS1 (in so far as it require proposals to maintain local distinctiveness and character) of the Exeter Local Plan First Review 1995-2011, as it would significantly harm the character and local distinctiveness of the hills to the north of Exeter, and the landscape setting of the City by breaching the natural boundary feature (the tree'd hedgebank north of Pendragon Road) that forms the clear edge to the urban area and being an incongruous, piecemeal development into the rural hinterland of the City on a greenfield site that has a strong rural character contributing significantly to the character and local distinctiveness of the hills to the north of the City. The proposed development would therefore also be contrary to paragraphs 130 c) and 174 a) b) of the National Planning Policy Framework (2021).
2. The open space on the site fulfils a valuable recreational, community, ecological and amenity role to local residents and visitors and its loss would harm the character of the area. Replacement open space of equivalent or better quantity and quality would not be secured in a suitable location, therefore the proposed development conflicts with saved Policy L3 of the Exeter Local Plan First Review 1995-2011 and paragraph 99 of the National Planning Policy Framework (2021).
3. The access roads into the site would have a significant impact on the tree'd hedgebank along the southern boundary of the site and the Site of Nature Conservation Interest that connects Mincinglake Plantation County Wildlife Site to the west and Savoy Hill County Wildlife Site to the east along the southern edge of the site, through the removal of sections of hedgebank and trees, and lighting from the development. The proposed development is therefore contrary to Policy CP16 of the Exeter Core Strategy which protects the biodiversity value of all sites of local conservation importance, including Sites of Nature Conservation Interest, and saved Policy LS4, which only allows harm to such sites if the need for the development is sufficient to outweigh nature conservation considerations. The need does not outweigh the nature conservation considerations in this case.
4. The access roads into the site would have a significant impact on the tree'd hedgebank along the southern boundary of the site and therefore would not

integrate into the existing landscape of the City including its natural features and ecology. They would not be sympathetic to the character of the area or its sense of place. The proposed development therefore conflicts with saved Policy DG1 c) of the Exeter Local Plan First Review 1995-2011, paragraph 4.4 (III) of the Residential Design Supplementary Planning Document and paragraph 130 c) of the National Planning Policy Framework (2021) requiring developments that are sympathetic to local character and history, including landscape setting.

5. In the absence of a Section 106 legal agreement in terms that are satisfactory to the Local Planning Authority which makes provision for the following matters:
  - 35% affordable housing (at least 25% First Homes, 70% social rented and the remaining balance as intermediate).
  - Public open space, including LAPs indicated on illustrative layout.
  - Management company to manage/maintain public open space on the site including LAPs.
  - £395,000 toward mitigation measures in Pinhoe Area Access Strategy 2019 Addendum.
  - Up to £5,000 for Traffic Regulation Order.
  - £3,558.75 per dwelling towards new secondary school provision at South West Exeter.
  - £584 per dwelling towards patient space at GP surgeries.
  - £370 per bedroom (excluding the first bedroom) to fund the improvement and additional maintenance of the existing off-site play area at Pendragon Road Play Area.
  - £112 per bedroom (excluding the first bedroom) towards the improvement and additional maintenance of Pendragon Road MUGA.

the proposal is contrary to Exeter Core Strategy Policies CP7, CP9 and CP18, Exeter Local Plan First Review 1995-2011 saved policies L4 and 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.