

# Planning Committee Report 22/0537/OUT

## 1.0 Application information

<b>Number:</b>	22/0537/OUT
<b>Applicant Name:</b>	Waddeton Park Ltd
<b>Proposal:</b>	Outline planning application for the demolition of existing buildings and structures and the phased development of up to 350 dwellings and associated infrastructure and open space. (All matters reserved except access)
<b>Site Address:</b>	Land At St Bridget Nursery Old Rydon Lane Exeter
<b>Registration Date:</b>	7 April 2022
<b>Link to Documentation:</b>	<a href="https://publicaccess.exeter.gov.uk/online-applications/simpleSearchResults.do?action=firstPage">https://publicaccess.exeter.gov.uk/online-applications/simpleSearchResults.do?action=firstPage</a>
<b>Case Officer:</b>	Christopher Cummings
<b>Ward Member(s):</b>	Cllr Joshua Ellis-Jones, Cllr Andrew Leadbetter, Cllr Rob Newby

### REASON APPLICATION IS GOING TO COMMITTEE

The Director of 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 GRANT permission subject to completion of a S106 Agreement and subject to conditions as set out in report below.

## 3.0 Reason for the recommendation:

In assessing the Outline application and access the proposal is 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.

The other material considerations, such as the layout of the development and design of the dwellings, will be assessed at Reserved Matters stage.

#### 4.0 Table of key planning issues

Issue	Conclusion
The Principle of the Proposed Development	The principle of providing residential dwellings in this area is acceptable and supports the intended use of the site as set out in the Local Plan, Core Strategy and Newcourt Masterplan.
Access and Impact on Local Highways	<p>It is proposed to create a new main road through the development, closing off part of Old Rydon Lane for through traffic. Access will be from the west adjacent to Rydon Lane, with egress on the west and through a one-way highway to the east. There will be a number of secondary roads to access Old Rydon Lane and existing dwellings.</p> <p>The submitted Transport Assessment confirms that the level of vehicle movements can be accommodated on the existing road network. The Local Highway Authority confirmed that the proposed access points will not generate significant safety concerns and are acceptable. There is the potential for a future connection through third-party land to the north-east and this will be a requirement of the final design, alongside a number of cycle and pedestrian links to the north of the site to ensure suitable permeability for all modes of transport.</p> <p>Overall, the access is considered acceptable and does not generate any in-principle objections.</p>
Parking	<p>The Reserved Matters design will need to meet SPD requirements for vehicle parking (including electric vehicles). Secure cycle storage for each dwelling will need to be provided as well as car-club spaces. The Local Highway Authority requested a S106 contribution of £15,000 to deal with potential parking conflicts following completion of the development due to</p>

Issue	Conclusion
	the proximity to the Exeter Chiefs ground and issues with on-street parking on match days.
Affordable Housing	The proposal will meet policy requirements for affordable housing of 35%. This will be secured through the S106 agreement.
Noise From A379	There is a medium risk of adverse effects from noise and a bund or screen is proposed along the western boundary with the A379 as mitigation. A landscape bund is considered more attractive and sustainable than a hard screen. This will be required via condition, with it designed to allow pedestrian/cycle links through it.
Impact on Trees	There are a number of high and moderate quality trees within the site. In line with the Tree Manager's recommendations the applicant will be advised to design the layout around these to enhance the sustainability and character of the site.
Impact on Biodiversity	The site is not a designated wildlife site, however surveys noted bat roosts, bird nests, badger trails and slow worms. Habitat Surveys will be required prior to each phase commencing to ensure appropriate protection and mitigation occurs.
Contaminated Land	A Phase 1 and Phase 2 contamination assessment was submitted which identified potential contaminants on site. A pre-commencement condition for mitigation measures will be required alongside further reports for areas not accessible during the original surveys due to being an active workplace. With the use of this condition it is considered that any contamination risks can be suitably managed both during the construction stage and once occupied.

<b>Issue</b>	<b>Conclusion</b>
Archaeology	There are no significant heritage assets in the surrounding area or archaeological designations. There may be potential for archaeological deposits and the standard archaeological condition should be added accordingly.
Impact on Air Quality	The site is not within an Air Quality Management Area, however there is one to the south at Countess Wear. An Air Quality Assessment was submitted and confirmed that the impacts were not significant and would not exceed Government levels. Sustainable transport measures will be required in the design of the site to help mitigate potential impacts.
Flood Risk and Surface Water Management	The site is within Flood Zone 1 and at low risk of flooding. The increase in hard surfaces will see potential surface water issues however it is proposed to manage this with swales and basins. This is considered acceptable in principle subject to full details at Reserved Matters based on the final site layout.
Sustainable Construction and Energy Conservation	A Waste Audit Statement and decentralised energy use will be required. This matter will form part of the Reserved Matters.
CIL/S106	The proposal is CIL liable and will necessitate a s106 legal agreement to secure the obligations set out in the report.
Development Plan, Material Considerations and Presumption in Favour of Sustainable Development	The proposal is considered to accord with the Development Plan given that the site falls within the Newcourt strategic allocation, and there are no material considerations to indicate that the application should be refused, taking into account the advice of consultees and the imposition of conditions.

## **5.0 Description of site**

The application site is a 13.2 ha broadly triangular parcel of land located in the Newcourt area of the city. The topography of the site has a mild slope from north to south.

The eastern part of the site is still in operational use for horticulture and garden centre related uses, however this aspect is not open to the public. There are a number of existing buildings and structures currently on site, including offices, growing areas, polytunnels, storage buildings and hard surfaces. Potential bat roosts and bird nests were noted in a number of the existing buildings, alongside badger trails and slow worms.

There are a number of hedges and trees within the site including a group of trees running along the north-west boundary fronting Rydon Lane, trees to the south east of existing on-site buildings and an assortment of trees and other planting bordering a triangular field area in the south-east corner of the site.

To the north of the site is Rydon Lane (A379) with the employment area of Pynes Hill beyond this. To the immediate north-east is an undeveloped plot of land, leading to a highway and Ikea and to the east is a recent residential development at Newcourt Way.

To the west, across Rydon Lane is the West of England School and College, including private and public open space leading to Ludwell Valley Park.

To the south runs Old Rydon Lane, a two-way street, with a single property on the northern side of the road, Weir View House. On the southern side of Old Rydon Lane there are dwellings with the majority fronting northwards towards the road, with the exception of a new development at Holland Park. Further to the south, behind the dwellings is Exeter Golf and Country Club.

The site is located within the Newcourt Strategic Allocation as set out in policy CP19 and Plan 1 of the Core Strategy (2012). This proposes 3,500 dwellings and 16ha of employment land and supersedes the allocation set out in the Local Plan First Review (2005).

The site falls within Flood Zone 1, however does not fall within any other designated site. It is within 10km of the Exe Estuary Special Protection Area (SPA), Dawlish Warren Special Area of Conservation (SAC) and East Devon Pebblebed Heaths SPA and SAC.

## **6.0 Description of development**

The proposal is to develop up to 350 dwellings on the site, including 35% affordable homes, together with supporting infrastructure and open space, following the

demolition of the existing buildings and structures. The application is outline with all matters reserved except access.

In relation to the access, the following is proposed:

- Vehicle access to the site from Rydon Lane onto new main street with closure of access through Old Rydon Lane from the west. Exits from the site will be at the Rydon Lane access point and a new access onto Old Rydon Lane (heading east) which will become a one-way street.
- Two secondary access points will be created onto Old Rydon Lane, as well as use of the existing access point (exit only). The section of Old Rydon Lane between these access points will be downgraded to a 'green lane', which will be accessible to pedestrians and cyclists, and vehicles accessing the existing housing along Old Rydon Lane to the south of the site.

In addition, the Illustrative Layout drawing submitted in support of the application shows a potential connection on the northeast site boundary to the adjoining undeveloped land and a pedestrian/cycle connection to the existing cycle route to the north. These connections and additional pedestrian/cycle connections on the site boundary will be secured in the s106 legal agreement to improve site permeability/connectivity.

NB. As this is an outline application, the developer must submit further proposals for formal approval by the City Council. As we strive for the highest quality development and are committed to raising design standards, applicants will be expected to engage with the Exeter Design Quality Partnership (EDQP) before submitting reserved matters details for formal approval. The National Planning Policy Framework requires that local planning authorities have regard for the outcome of design-led processes, including recommendations made by design review panels. The EDQP is Exeter's preferred route to ensure consistent advice across the city's development.

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

- PCL Planning Covering Letter (05 April 2022)
- Ecological Impact Assessment (08 February 2022)
- Environmental Noise Assessment (28 September 2020)
- Interim Travel Plan (31 January 2022)
- Design and Access Statement (March 2022)
- Tree Survey (Received 07 April 2022)
- Sustainable Drainage Statement and Level 2 Flood Risk Assessment (January 2022)
- Heritage Assessment (November 2020)
- Planning Statement (January 2022)
- Transport Assessment (31 January 2022)

- Archaeological Survey (December 2020)
- Phase 1 Desk Study and Phase 2 Preliminary Ground Investigation (April 2021)

The following supporting information was submitted during the application assessment period:

- Air Quality Assessment (09 August 2022)
- Surface Water Drainage Statement Addendum 1 (28 June 2022)

## 8.0 Relevant planning history

Reference	Proposal	Decision	Decision Date
<a href="#">02/1736/FUL</a>	Provision of building (500 sq. metres) for use as store to replace existing	PER	10.01.2003
<a href="#">00/0617/FUL</a>	Extension to garden shop and realignment of internal roadway	PER	05.06.2000
<a href="#">97/0565/FUL</a>	Construction of new entrance lobby to retail store, construction of new toilet facilities and extension and use of existing staff messroom to provide new cafe, and other external works including new covered walkway, boundary fence and realignment of...	PER	28.08.1997

## 9.0 List of constraints

The site is in close proximity to the Air Quality Management Area (AQMA) to the south at Countess Wear roundabout. The site is adjacent to the A379, which generates noise from traffic. There are no other constraints except for the ecological and tree considerations.

## 10.0 Consultations

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

**Natural England:** Advise that a Habitat Regulations Assessment is required as it falls within the 'zone of influence' for East Devon Pebblebed Heaths SAC, East Devon Heaths SPA and Exe Estuary SPA as set out in the Local Plan and the South

East Devon European Sites Mitigation Strategy and is 'likely to have a significant effect' due to increased recreational pressure.

**RSPB:** Support the protection and enhancement of biodiversity at the site but question the range of integral bird boxes proposed. Recommendations made on preferred bird box designs.

**Devon and Somerset Fire and Rescue Services:** No in-principle objection to proposal. Full details will be required at Reserved Matters in relation to dwelling design and roads and access to dwellings to ensure they are acceptable.

**South West Water:** No objection subject to submission of details of foul and surface water drainage. This should follow the drainage hierarchy to limit surface water entering sewers where possible.

Map provided shows foul waste to the north of Rydon Lane and to the south (to the rear of the dwellings) of Old Rydon Lane. There is a combined sewer running through the south-west corner of the site.

**Wales and West Utilities:** No specific comments provided, however pipe network plan provided showing medium pressure pipes running adjacent to the northern boundary and cutting through the western part of the site, along the southern boundary and extending partially in the south-eastern part of the site.

**Exeter Airport:** No conflict with safeguarding criteria from this proposal. Safeguarding guidance notes provided. It was noted that SUDS will require monitoring to ensure water does not persist beyond projections and create bird strike issues for aviation. A Wildlife Hazard Management Plan is recommended as application progresses to ensure manage risk to aviation.

**Royal Devon University Healthcare NHS Foundation Trust:** The trust is currently operating at full capacity and S106 contribution is requested of £418,148 to mitigate for the increase in population in this area.

**NHS Devon Clinical Commissioning Group:** Local surgeries of Glasshouse Medical Centre, Wonford Green Surgery and Hill Barton Surgery are over capacity and S106 contributions of £204,288 was requested to mitigate for the additional GP services needed.

**Public Health Devon:** Consider greater consideration for health impacts is needed and a Health Impact Assessment should be undertaken. Large public amounts of open public and amenity space is noted. Use of attenuation basin for floods raises concerns over potential health hazard and safety hazard and mitigation measures should be considered. Noise and air quality impacts must be considered. Proposed trees need to be allowed to reach maturity to reduce carbon within the development.

Use of green modes of transport welcomed, however e-bike/mobility scooter charging should be included. Affordable housing levels of 35% are welcomed.

**Western Power:** Advised that LV assets are on the site and they must be removed. The HV circuit has a maximum capacity of 1MVA for future developments and the new loading requirements must be considered. The submitted Western Power plan shows a number of low-voltage cables in the south-west aspect of the site, connecting to a high voltage line running along Old Rydon Lane.

**Police Designing Out Crime Officer:** No objection to proposal. The use of 'Secured by Design' principles is welcomed and guidance provided in relation to layout at Reserved Matters stage. These aspects include design of hedgerow, appropriate boundary treatment, pedestrian routes, lighting and parking layouts.

**Local Highway Authority (Devon County Council):** No in-principle objections to proposal. A detailed Transport Assessment was submitted which demonstrates that existing junctions have capacity for this development and would not generate a severe highway impact.

The main thoroughfare will see access changes adjacent to Rydon Lane which would increase the current capacity of vehicle movements. Old Rydon Lane would see a low-level of movements for access to existing dwellings and due to its alignment and narrow width would be highly unlikely to be used as a 'rat run'. Visibility splays can be achieved and there is not considered to be significant highway safety impacts. The site has existing footways adjacent to it, offering ideal access points for pedestrians/cyclists. This will be dealt with at Reserved Matters stage.

Large vehicles are able to access/egress the site and it may be technically possible for a bus route to operate through the site in the future.

Parking and cycle parking will be dealt with at Reserved matters stage.

The design of the site should incorporate the link to the north-east into third-party land which will link to the Ikea roundabout. This would need to form part of the Reserved Matters should the third-party land come forward for development. The change in alignment to Old Rydon Lane would require a Traffic Regulation Order (TRO) and it is recommended to engage as early as possible with the Highway Authority. There are existing TRO's occurring on Old Rydon Lane and should consent be granted then these would need reconsideration.

A S106 contribution of £15,000 was requested to look at parking restrictions once the site has been occupied. This would allow for additional parking measures as required once the roads have been adopted, with particular reference to dealing with parking issues on match days for Exeter Chiefs.

The submitted Travel Plan is broadly acceptable, however the voucher scheme would need to be expanded. An updated Travel Plan would be required at Reserved Matters.

**Lead Local Flood Authority (Devon County Council):** No in-principle objection subject to further details at Reserved Matters stage. The surface water is proposed to be managed with permeable paving, multiple swales and basins. These should provide opportunities for treatment and interception. Allowance for future development of Weir View has been included. Full details of the drainage system, including soakaway tests, management exceedance flows and management should be submitted at Reserved Matters.

**Local Education Authority (Devon County Council):** Identified an additional 87.5 primary pupils and 52.5 secondary pupils which would have direct impact on schools in Exeter. With the opening of Monkerton Primary School it is noted that there is sufficient capacity for primary and early-years pupils. With the opening of Matford Brook Academy there is sufficient capacity for secondary pupils. There will be an increase of 2.8 pupils requiring specific Special Education and contributions are requested at a level of £251,927 for 1.75 primary and 1.05 secondary pupils.

**Waste Planning Authority (Devon County Council):** The application was not submitted with a Waste Audit Statement and one will be required at Reserved Matters stage. This will ensure waste generated through construction and operational phases is managed in accordance with the waste hierarchy.

**Environmental Health:** Originally raised objections due to lack of information relating to air quality impacts and appropriate mitigation. Following submission of an Air Quality Assessment this objection was withdrawn as the impact is acceptable and no mitigation is required.

The Phase 2 intrusive investigation recommended further investigation and remediation methods for potential contaminants. A pre-commencement condition was recommended for this to be undertaken.

A condition relating to a Construction Method Statement was recommended to limit impacts during the construction phase of the development.

**Public & Green Spaces Team:** No objection, subject to the following minimum requirements for play provision to be secured via S106 agreement:

- Local Areas of Play within 100m of dwellings
- Local Equipped Area of Play within 400m
- Neighbourhood Equipped Plan Area

**Tree Manager:** Comments on indicative layout submitted. Arboricultural Impact Assessment will be required at Reserved Matters. Concerns raised over positioning of units and impact on adjacent trees and use the Tree Constraints Plan to guide the

design process. Due to number and quality of trees on site it will be challenging to meet the number of units proposed.

**Exeter Cycling Campaign:** Commented on a number of aspects as follows: Access/egress points for cycling should be confirmed as different points shown on submitted documents. North-east connection is referred to as 'potential', however this should be provided as a strong desire line to the east towards Ikea. Priority to cyclists on Rydon Lane/Old Rydon Lane junction should be considered with a raised table and markings to reduce speeds. Mobility hub is welcomed however it is recommended that 'traditional cycle parking' be expanded to include non-standard bikes (hand bikes, cargo bikes etc). Cycle paths through the site should connect up coherently. Request that minimum level of cycle parking be exceeded to promote foot/bike travel.

## 11.0 Representations

67 comments have been received, with 66 objecting to the proposal and 1 supporting.

The 66 objections received raised the following concerns:-

- Safety concerns regarding speed of traffic on Rydon Lane.
- Increase in traffic on Rydon Lane and will not be able to cope with increase.
- Proposed junction onto Rydon Lane is inadequate.
- Number of serious accidents at junction with Rydon Lane and significant changes required to improve safety in this area.
- Concerns over capacity on Rydon Lane for right turn from Countess Wear onto Old Rydon Lane.
- Old access from site onto Old Rydon Lane should be retained as footpath and cycle track.
- Safe crossing for cyclists/pedestrians needed at Rydon Lane junction, possibly traffic lights.
- Traffic joining eastern part of Old Rydon Lane will join at narrowest point where it becomes single lane.
- Poor visibility intersection with Newcourt Drive will see significant traffic increase and queues.
- Traffic Regulation Order required for changes to Old Rydon Lane and this has been challenged. Application should not be determined until this has been resolved.
- Proposed layout fails to provide movement network through the site.
- Recommended for access point through land to north-east connecting to roundabout to west of Ikea.
- Lack of access points for pedestrians/cycles to north-west of site.
- Impacts of traffic and new road on residents of Old Rydon Lane.
- Increase in traffic flow on Old Rydon Lane and Rydon Lane.
- Lack of detail on secondary access points from new road to Old Rydon Lane.

- Creation of one-way street on Old Rydon Lane will result in dangerous conflict between vehicles, pedestrians and cyclists.
- Eastern access is 'overly engineered' and severs green parkland area adjacent to Albatross Road.
- Use of 'lightly segregated' footway on Old Rydon Lane to allow larger vehicles to run over radii is dangerous.
- Transport Assessment is out of date and does not use guidance recommendations.
- Old Rydon Lane cannot be made 'green' with increase in traffic on east and western ends.
- Removal of ability for occupants of dwellings on Old Rydon Lane to turn left out of driveways.
- 20mph speed limit restriction and traffic calming measures should be installed on Old Rydon Lane.
- Existing shared pathway on Rydon Lane does not meet guidelines and requires improvement to accommodate increase in users.
- Reduced speed limit on Rydon Lane should be introduced of 30mph.
- Current lack of pavement for pedestrians on Old Rydon Lane.
- Increase in traffic noise on Old Rydon Lane.
- Increase in pollution from vehicles on Old Rydon Lane.
- Old Rydon Lane is a current rat run, especially at peak times
- Roads should be resident access only
- Too many access points onto Old Rydon Lane
- Loss of prime agricultural land
- No dwellings should be south of line of housing in Albatross Road.
- Right hand turn from Rydon Lane into site is not large enough to accommodate increased traffic.
- Loss of light and sunlight from height of new dwellings
- Increase in noise from new dwellings.
- Recommendations made regarding placement of dwellings.
- Impact on local infrastructure (GP surgeries, schools, retail etc.)
- Lack of separation between development and Albatross Road.
- Overlooking of properties on Albatross Road.
- Loss of view from dwellings on Albatross Road.
- Loss of green space.
- Green barrier should be installed towards Rydon Lane.
- Impacts on services such as internet speeds, electricity and water pressure. Recent developments have already caused issues with these.
- Objection to removal of trees/shrubs between Albatross Road and application site which provide barrier between sites.
- Existing trees on site should be retained as add to aesthetics, ecology and mature feel of the development. Loss of trees should be at a minimum.
- Loss of specimen trees and bushes between Albatross Road and application site.
- No clear benefits to local community.
- Change in housing dynamic in surrounding area from owners to renters

- Scale of development is excessive and should be reduced.
- Poor drainage solution of attenuation ponds.
- Concerns over flooding from development. Old Rydon Lane already experiences a level of flooding from surface water run-off.
- Land should be used as nature reserve instead
- Lack of GP surgery for Newcourt
- Site would be better suited for driving range or allotments and not dwellings.
- Impact on local wildlife using the land such as woodpeckers, foxes, insects and bats.
- Stress on Council services.
- Semi-rural character of the area will become inner-city character.
- What will be done about asbestos on site?
- Large carbon footprint from development and loss of site that is existing natural carbon sink.
- Collective contaminant impacts have not been taken into account on the site.
- Site should be subject to unexploded ordnance surveys to ensure no WW2 bombs lie undetected.
- Surrounding area is a characterless mass of 'overpriced executive housing'
- Lack of affordable housing for locals wishing to stay in this area.

In addition a letter with 20 signatures was submitted objecting to:

- Proximity of properties to Albatross Road and design of site
- Lack of detail on design of the houses
- Traffic flow and heavy modifications required to Rydon Lane to accommodate the additional volume of cars
- Drainage, with concerns about stagnant ponds and child safety
- Impact on local infrastructure

There has been 1 letter of support received commenting that:

- Good site for houses.
- Good to see plans for 1-bed and 2-bed dwellings.
- Hopefully dwellings to help those on low incomes.

It should be noted that this application is for Outline planning permission with all matters apart from Access being reserved. A high number of comments relate to the overall site layout which is not to be determined at this time and will be dealt with through later Reserved Matter applications.

All other matters will be dealt with in Section 16 (Planning Assessment) of this report.

## 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: optional technical standards
- Housing supply and delivery
- Land affected by contamination
- Natural environment
- Noise
- Planning obligations
- Renewable and low carbon energy
- Transport evidence bases in plan making and decision taking
- Travel Plans, Transport Assessment and Statements
- Use of planning conditions
- Viability

Waste

Water supply, wastewater and water quality

National Design Guide (October 2019)

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)

CP1 – Spatial strategy

CP4 – Density

CP5 – Mixed Housing

CP7 – Affordable Housing

CP9 – Transport

CP11 – Pollution

CP12 – Flood Risk

CP13 – Decentralised energy networks

CP14 – Renewable and Low Carbon Energy

CP15 – Sustainable Construction

CP16 – Green Infrastructure, Landscape and Biodiversity

CP17 – Design and Local Distinctiveness

CP18 – Infrastructure

CP19 – Strategic allocations

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

AP1 – Design and location of development

AP2 – Sequential approach

E3 – Retention of employment land or premises

H1 – Search sequence

H2 – Location priorities

H3 – Housing sites  
H7 – Housing for disabled people  
L4 – Provision of playing fields  
T1 – Hierarchy of modes  
T2 – Accessibility criteria  
T3 – Encouraging use of sustainable modes  
T5 – Cycle route network  
C5 – Archaeology  
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  
EN5 – Noise  
DG1 – Objectives of urban design  
DG5 – Provision of open space and children’s play areas  
KP8 – Newcourt area

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

W4 – Waste Prevention  
W21 – Making Provision for Waste Management

#### Other Material Considerations

The Exeter Plan – Outline Draft Plan (September 2022)

S1 – Spatial Strategy  
S2 – Liveable Exeter delivery principles  
CE1 – Net Zero Exeter  
CE2 – Local Energy Networks  
CE3 – Flood Risk  
H1 – Housing Requirement  
H2 – Housing Allocations (Site 83)  
EJ2 – Retention of Employment Land  
STC1 – Sustainable Movement  
STC2 – Active and Sustainable Travel in New Developments  
STC3 – Active Travel Proposals  
STC4 – Public Transport Proposals  
STC5 – Digital Communications  
NE3 – Biodiversity

NE4 – Green Infrastructure  
HH1 – Conserving and Enhancing Heritage Assets  
D1 – Design Principles  
H1 – Health and Wellbeing  
IC1 – Delivery of Infrastructure  
IC2 – Community Facilities

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 2021/22 Report  
Net Zero Exeter 2030 Plan (Exeter City Futures, April 2020)  
Newcourt Masterplan (2010)  
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 properties where they may be some impact, however this will be fully assessed at Reserved Matters and can be mitigated by imposing conditions. However, any interference with the right to a private and family life and home arising from the scheme as a result of impact on residential amenity is considered necessary in a democratic society in the interests of the economic well-being of the city and wider area and is proportionate given the overall benefits of the

scheme in terms of provision of delivery of new dwellings, including affordable housing.

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

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

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

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

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

#### **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

- 35% affordable housing (122 dwellings if 350 dwellings developed and financial contribution for 0.5 of a dwelling towards off-site affordable housing – cannot be calculated until reserved matters confirms dwelling sizes).
- Public open space with play provision
- £1,195 per dwelling for additional healthcare services provided by Royal Devon University Healthcare NHS Foundation Trust
- £719.79 per dwelling for Special Education provision by Devon County Council Children's Services
- £584 per dwelling to provide additional capacity at local healthcare facilities in accordance with the comments by NHS Devon CCG
- £15,000 to Devon County Council for parking restrictions
- £1,359.51 per affordable dwelling to mitigate the impact of the development on the Exe Estuary SPA and the East Devon Pebblebed Heaths SAC and SPA
- Job creation during construction phase

#### 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 2023 is £126.79.

The proposal will generate Council Tax.

## 16.0 Planning assessment

The key issues are:

1. The Principle of the Proposed Development
2. Access and Impact on Local Highways
3. Parking
4. Affordable Housing
5. Noise from A379
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. The Principle of the Proposed Development

The site is allocated under policy KP8 in the Local Plan First Review (2005) and policy CP19 of the Core Strategy (2012), with Plan 1 (Newcourt Strategic Allocation) of the Core Strategy setting the area covered by this. Policy CP1(i) seeks at least 12,000 new dwellings in the city, with CP1(iii) setting out the Newcourt area for dwellings within a planned and integrated urban extension. Policy CP19 sets out a level of 3,500 homes and 16ha of employment in the Newcourt area of the city. The Newcourt Masterplan (2010) provides further details, with the application site within an area clearly shown for residential development in the Masterplan Figure, with an estimated 472 dwellings. It should also be noted that while it currently carries very limited weight, the Exeter Plan – Outline Draft Plan (September 2022) proposes to allocate the site for housing (Policy H2) with an estimated figure of 334 dwellings being provided.

It is noted that there is an existing employment use at the site, however the public facing side of St Bridget Nurseries is in another location on Sidmouth Road, Clyst St Mary with this site serving as offices and growing areas. The wider Newcourt Masterplan and in situ developments should be taken into account when assessing the loss of employment as there have been deviations from the proposed layout. The Ikea site to the north-east was constructed on land earmarked in the Newcourt Masterplan for housing (200 dwellings) and delivered retail (with employment provision) instead, leaving a shortfall of dwelling delivery for the wider area. It is therefore considered that the loss of employment has been mitigated by other developments in the wider area and on balance is acceptable and accords with policy E3 of the Local Plan and policy CP2 of the Core Strategy.

The proposal is for up to 350 dwellings which is noted as being below the 472 estimate set out in the Newcourt Masterplan. The overall site density is a level of 26dph, however with the public green space, infrastructure and drainage areas discounted there is a level of 40dph in the areas being occupied by dwellings.

There are constraints on the site, including access routes, green space provision, drainage areas and landscape buffers. The submitted Design and Access Statement discusses aspects of the density, noting that due to the scale of development there is a larger level of green space and play facilities required than neighbouring schemes, as well as provision of drainage areas due to the raised position above Old Rydon Lane. The surrounding built form was also taken into account, with it predominantly being houses, rather than flats. The indicative site layout has a mix of dwelling types with higher density levels (such as 1 or 2-bed dwellings) adjacent to the primary highway, and lower density levels towards the site boundaries for 3 and 4-bed dwellings. On balance, and taking into account the lower housing numbers proposed in the Exeter Plan Outline Draft Plan (September 2022) the density levels are considered acceptable and will provide a range of housing types within the site, alongside

Policy CP17 of the Core Strategy (2012) also sets out requirements that the development will 'exhibit a high standard of sustainable design that is resilient to climate change and complements or enhances Exeter's character, local identity and cultural diversity'. This policy sets out key requirements for Newcourt, including the design, retention of green features, low/zero carbon energy and high quality sustainable movement network. The majority of these aspects will be dealt with at Reserved Matters stage, however the sustainable movement network requirements is of relevance as part of the Access matters. There is proposed to be a north-south pedestrian/cycle link through the site, as well as a link to third party land to the north-east. Old Rydon Lane is also proposed to be partially closed and a one-way system introduced further enhancing cycle and pedestrian links along that route. It is therefore considered that, whilst the majority of matters will be dealt with at Reserved Matters, those aspects relevant to this Outline set out in CP17 are met in-principle.

Overall, the proposal is considered to be acceptable in principle, accounting for the current adopted and emerging development plan policies referred to above.

## 2. Access and Impact on Local Highways

Vehicular access is proposed from Old Rydon Lane, primarily adjacent to the junction with Rydon Lane to the west. A new road through the site is proposed, with Old Rydon Lane being closed off at this point to direct all traffic through this development. There will be a number of connecting points from the new road into Old Rydon Lane, however the new road will run to the east, joining with Old Rydon Lane towards Newcourt Way. This eastern part of Newcourt Way is proposed to be a one-way street with vehicle traffic going towards Newcourt Way. The vehicular access is

therefore from Rydon Lane to the west, with the egress via Old Rydon Lane to both the east and the west.

The Local Highway Authority were consulted on the proposal and raised no in-principle objections to the scheme.

A detailed Transport Assessment was submitted with the proposal which indicated a total of 158 and 153 two-way trips in the AM and PM peak hours respectively. The current use of the site already generates traffic movements, and with this taken into consideration there is an additional 137 and 88 two-way trips in the AM and PM peak hours. This averages out to approximately one additional vehicle movement every 30 seconds in the AM peak. The submitted Transport Assessment demonstrates that, with the inclusion of future growth, the site and surrounding junctions have sufficient capacity to accommodate this development.

The western access point will see a wider carriageway installed with footway/cycleways which can accommodate an increased level of vehicle movements from Rydon Lane. Old Rydon Lane would be closed off on this western side, with access via secondary roads from the new highway through the development site. It was noted by the Local Highway Authority that Old Rydon Lane would see low level of movements and would be highly unlikely to be used as a 'rat run' due to the alignment, narrow nature of the road and road layout to the east. It is noted that this access point would lead to increased traffic movements for the two dwellings on the far western side of Old Rydon Lane. However, this is not considered to be significant, with the new highway directing traffic away from these properties and the existing dwellings being set back from the street frontage, with additional distance between the new vehicle highway being created by cycleways running in front of the properties.

Along Old Rydon Lane, connecting streets into the development are proposed for access to the existing dwellings. Where there are connections to the south, into Holland Park, these junctions are to be retained. Newcourt Road, to the east, will continue be a right-turn only, which is currently being agreed through a Traffic Regulation Order, with Holland Lane retained as a two-way junction allowing egress to the east and west.

To the east the main highway through the site joins Old Rydon Lane just before the Albatross Road development. Old Rydon Lane is then proposed to become a one-way street through the narrowest point, connecting with Newcourt Way. Letters of objection were received in relation to this aspect, however it is noted that the changes to this road are currently being undertaken through a Traffic Regulation Order (TRO) as part of Phase 3 of the Holland Park development to the south-east. Whilst this is shown as proposed on the plans, it forms part of a requirement for a separate development and will help in providing a safe egress from the site onto

Newcourt Way. The TRO is currently under consideration and the objectors have advised they have submitted representations in relation to this.

In relation to this application, a TRO would be required for all the proposed works on Old Rydon Lane and a condition would be required for these to be secured prior to commencement on site. This requirement for a TRO would mean that if it cannot be agreed in an acceptable format then the scheme would not be able to provide safe access and would not be able to be developed in this current form.

Public comments also raised that a connection to the north-east would be preferred, linking to the roundabout to the west of Ikea. This roundabout is in situ and has a junction head already installed. Whilst this junction would be a preferred option, there is third-party land between the connecting points, with this land intended for employment use as set out in the Newcourt Masterplan. The submitted indicative layout plan shows a potential link through this site, but the application must be assessed based on the submitted access plans. A future connection point to be designed into the scheme will be a requirement of the Reserved Matters layout, with it designed to ensure that it can accommodate expected vehicle movements, as well as pedestrians and cyclists. It is therefore concluded that the potential for a link to the north-eastern roundabout will be a requirement of the Reserved Matters scheme, however the connection itself is subject to the third-party land providing the link and falls outside the scope of this application

It was noted by the Local Highway Authority that suitable visibility splays can be achieved on all access points in line with Manual for Streets guidance. It was also confirmed that the access point designs will be able to accommodate large vehicles and that it may be technically possible to run a bus route through the site if required in the future. This will enhance sustainable travel choice to new and existing residents.

There is an existing pedestrian and cycleway to the north of the site and the Illustrative Layout shows a connection to this. It is considered that connections to this cycleway are important and necessary to create good permeability through the application site. At this point the layout is indicative, however it is considered that at least two connection points should be made (one to the north and one to the north-west) and this will form a requirement of the layout Reserved Matter. In addition there will be proposed links to the south, as well as the potential linkage to the north-east.

In terms of public transport, the site is 0.6 miles (13 minutes walk) from Newcourt railway station and 0.4 miles (8 minutes) from bus stops on Newcourt Way.

Overall, the access proposals set out in this application are considered to be acceptable and would not give rise to significant highway impacts. It is noted that they are partially reliant on a TRO for another scheme, however this is currently being dealt with by the Local Highway Authority.

### 3. Parking

A suitable level of vehicle parking, including electric vehicle charging will be required in line with the Sustainable Transport SPD guidance levels. Spaces will need to meet minimum recommended levels and be designed to be safe, accessible and not dominate the streetscene.

In order to promote sustainable transport measures there will be a requirement for secure cycle storage for each dwelling in line with SPD levels. In addition, due to the scale of development there will be a requirement for car-club parking and cycle-hire spaces. These aspects should be conditioned.

It is noted from the Local Highway Authority that a S106 contribution of £15,000 has been requested. This is to deal with potential parking issues once the development has been completed, such as on match days for Exeter Chiefs games.

### 4. Affordable Housing

Policy CP7 of the Core Strategy and the Affordable Housing SPD (2014) requires 35% of the housing to be Affordable Housing (AH) with 70% provided as social rent and the remainder as intermediate forms of affordable housing. The policy position has been updated in line with national policy through the publication of the Council's First Homes Planning Policy Statement (June 2021), which requires at least 25% of the affordable housing to be provided as First Homes. If the maximum number of dwellings applied for was approved through a reserved matters application, this would deliver 122 affordable dwellings on the site, comprising 85 social rent, 31 First Homes and 6 other intermediate affordable units. A financial contribution will also be secured towards the provision of affordable housing off site in the city to cover 0.5 of a dwelling, in accordance with the Affordable Housing SPD. These obligations will be secured in a s106 legal agreement.

### 5. Noise from A379

The submitted Environmental Noise Assessment (September 2020) states that the noise along the western boundary from the A379 represents a medium risk of adverse effects, and should be minimised and mitigated against to protect the amenity of the proposed dwellings on the site. It recommends the construction of a bund or screen along the western boundary accordingly and maximising the separation distance from the road in the design of the layout of the development, as well as optimising the orientation of the houses to ensure reasonable internal sound levels will be achieved.

It's considered that a landscaped bund will be more attractive and sustainable than a hard screen along the A379 and a condition requiring this as part of the landscaping reserved matter should be added accordingly. It should be designed to allow the pedestrian/cycle links discussed under '2' above to pass through it. Environmental Health has also recommend a condition for an updated Acoustic Design Statement. Subject to these conditions, it's considered that the proposal is acceptable in regard to this issue.

## 6. Impact on Trees

The site includes a number of individual trees, tree groups and hedgerows, as detailed in the submitted Tree Survey (ref. 05520). The layout (to be determined at reserved matters stage) will be expected to retain as many of these natural features as possible, with particular emphasis on retaining the trees identified as 'key trees' in the survey. A condition should be added to ensure that the existing trees to be retained will be protected during the construction phase.

NB. The layout will also be expected to include street trees, in accordance with paragraph 131 of the NPPF (2021).

## 7. Impact on Biodiversity

The site is not a designated wildlife site, however it is partially grassland and has hedges and other biodiversity features within it. The submitted Ecological Impact Assessment (February 2022) reports that an extended Phase 1 Habitat Survey of the site was carried out on 17 April 2020. Given the age of the survey and phased nature of the proposed development, updated surveys will be necessary prior to the commencement of each phase of the development to ensure that the impacts and any relevant compensation/mitigation are up-to-date. This requirement should be conditioned.

Protected species surveys were carried out for bats and reptiles. 6 bat species were recorded using the site, primarily associated with the south boundary and Old Rydon Lane. Some of the buildings on site had evidence of bat roosts. There is also a population of slow worm. The site supports other species, including nesting birds, common toad and possibly hedgehogs. The Ecological Impact Assessment includes recommendations for compensation and mitigation measures accordingly. Conditions should be added to ensure that no protected species will be harmed by construction activities and that the biodiversity of the site will be enhanced overall.

Comments were received from the RSPB regarding the choice of bird box/bricks proposed, with a recommendation for a different type. This matter will form part of the Reserved Matters and is acknowledged and has been passed on to the applicant for consideration.

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) and East Devon Pebblebed Heaths Special Protection Area (SPA) and Special Area of Conservation (SAC). 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 and s106 contributions with respect to the affordable housing.

## 8. Contaminated Land

Policy EN2 of the Local Plan requires assessment of contamination risks to ensure the proposal is safe for the proposed use. A Phase 1 and Phase 2 investigation report were submitted with this proposal and assessed by the Environmental Health team. No in-principle objection was received, subject to the recommendations of the report being followed.

The Phase 2 report concluded that there are potential risks within the site which will require mitigation. As such, a pre-commencement condition will be required for details of the proposed mitigation measures for these risks and for them to be carried out prior to any other work commencing on site.

It was also noted that there are buildings with asbestos on site that must be dealt with appropriately. The pre-commencement condition will include requirements for an asbestos survey and measures to safely remove this from site.

Part of the site is still active and investigation across certain areas was restricted. The report recommended further investigation in these areas, including the septic tank area, to confirm the recommendations for these zones.

In addition the submitted reports noted that there is an area in which piled foundations may be required due to the ground conditions. A further survey was recommended and this will be required via the condition.

Subject to the conditions above, the proposal is considered acceptable in regard to contamination and the proposed use for housing.

## 9. Archaeology

The submitted Heritage Assessment states that there is moderate to high potential for significant and previously unrecorded archaeological deposits from the prehistoric and Romano-British time periods to survive 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. There are no other heritage constraints to developing the site.

NB. Letters of representation raised concerns over unexploded ordnance in the site. Records do not show any WW2 bombs falling in the immediate surrounding area and as such a full survey is not considered necessary at this time. Details of handling any found during construction would be expected to form part of the Construction Environment Management Plan.

## 10. Impact on Air Quality

The site is not within an Air Quality Management Area (AQMA), however there is one located to the south-west at Countess Wear roundabout and along Topsham Road towards the City Centre. An Air Quality Assessment was submitted during the application process which concluded that the impacts were not significant and would not cause a worsening of air quality within the AQMA and occupants of the development would not be exposed to pollution levels above government objectives. In line with policy and guidance requirements sustainable transport measures will be required, including car/cycle club, cycle parking and electric vehicle charging stations and this offers a level of mitigation alongside a travel plan to further reduce emissions from the site as mitigation.

The Environmental Health team assessed the report and agreed with the conclusions that there were no significant air quality impacts generated by the scheme.

In relation to construction related air quality impacts it is considered that appropriate measures can be set out in a Construction Environment Management Plan to mitigate for this.

Overall, the proposal is considered to accord with policies EN3 and CP11.

## 11. Flood Risk and Surface Water Management

Policy EN4 does not permit development at risk of flooding, while policy CP12 of the Core Strategy requires all developments to mitigate against flood risk utilising Sustainable Urban Drainage Systems (SUDS) where feasible.

The site is within Flood Zone 1 and is at low risk of flooding and therefore accords with policy EN4.

It is proposed to manage surface water through multiple swales and basins with additional aspects of permeable paving. There will be a level of restricted outfall into a nearby public surface water sewer. Due to the nature of this Outline application the full details of this will form part of the Reserved Matters once the layout has been finalised.

The Lead Local Flood Authority (Devon County Council) raised no in-principle objections to the development, subject to full details of the scheme, including attenuation levels and exceedance flow routes with climate change allowances being provided through a pre-commencement condition. The drainage hierarchy will be required to be followed and it was recommended to contact South West Water to confirm if surface water would be allowed connections to their surface water system.

In relation to the swales and basins, concerns were raised by Exeter Airport regarding increased bird habitats through slow drainage and potential impacts through bird strikes on aviation. Other concerns were raised regarding safety surrounding these basins. Full details of the design and any safety measures will be dealt with at Reserved Matters.

There are no significant issues with flood risk or drainage in relation to this Outline consent, with full details to be assessed at Reserved Matters.

## 12. Sustainable Construction and Energy Conservation

Policy CP15 requires development proposals to demonstrate how sustainable design and construction methods will be incorporated. Limited information has been provided in this regard, which is due to the application being in outline with all matters reserved except access, however the submitted Design and Access Statement states that the (illustrative) layout uses the following tools to create the basis for a sustainable/climate resilient development:

- Predominantly east-west orientated streets – providing south facing plots and potential for photovoltaic panels
- Good sized plots to give potential for the inclusion of a fabric first approach, air source heat pumps, etc.
- Retained and new tree planting for shading
- Areas for habitat creation and water management
- Inclusion of electric car and bike charging points
- Well integrated cycle routes to encourage more sustainable modes of transport

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

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

Policy W4 of the Devon Waste Plan requires planning applications for major development to include a Waste Audit Statement. The Waste Planning Authority has recommended this is secured by condition.

### 13. CIL/S106

The proposal is for a maximum of 350 dwellings and this may be subject to change based on the final site layout. As such, all S106 calculations are set out as a maximum level and the per-dwelling calculations, as the required amount will vary depending on the level of housing and may be subject to change at Reserved Matters.

The development is CIL liable. The rate per sqm for residential development in 2023 is £126.79. This is charged on new floorspace (net of any existing buildings in lawful use during the requisite period), but does not include social housing provided a claim for social housing relief is made. The final payable levels will depend on the number of dwellings constructed, however it is noted that CIL will be liable and the applicant will be advised of this.

The following planning obligations must be secured in a s106 legal agreement to make the development acceptable in planning terms:

- 35% affordable housing (at least 25% First Homes, 70% social rented and the remaining balance as intermediate)
- £1,195 per dwelling (up to £418,148) for additional healthcare services provided by Royal Devon University Healthcare NHS Foundation Trust
- £719.79 per dwelling (up to £251,927) for Special Education provision by Devon County Council Children's Services
- £584 per dwelling (up to £204,288) to provide additional capacity at local healthcare facilities in accordance with the comments by NHS Devon CCG

- £15,000 to Devon County Council for parking restrictions
- £1,359.51 per affordable dwelling to mitigate the impact of the development on the Exe Estuary SPA and the East Devon Pebblebed Heaths SAC and SPA
- Unencumbered vehicle and pedestrian/cycle link to the north-east site boundary.
- Pedestrian/cycle links to existing pedestrian/cycle path running adjacent to the northwest site boundary
- Public open space and play provision in accordance with the comments from the Public & Green Spaces Team

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

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

The proposal is considered to accord with the Development Plan given that the site falls within the Newcourt strategic allocation, and there are no material considerations to indicate that the application should be refused, taking into account the advice of consultees and the imposition of conditions.

At present the Council cannot demonstrate a 5 year housing land supply, therefore the tilted balance as set out in paragraph 11d) of the NPPF (2021) applies. This means that the application should be granted permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. In this case, there are considered to be no adverse impacts, subject to the imposition of conditions, which would outweigh the benefits of the proposal.

#### **17.0 Conclusion**

The proposed development is considered to be acceptable. The site falls within the Newcourt strategic allocation (Policy CP19), which is proposed for around 3,500 dwellings (which this development will contribute towards), employment land and associated infrastructure. In effect, the principle of allowing housing on this site has already been established through the adoption of this policy. The proposal is also consistent with the Newcourt Masterplan (2010), which indicates residential development on this part of the strategic allocation area. Furthermore, whilst it carries very limited weight at present, the site is allocated for housing (334 dwellings) in the new Exeter Plan (unadopted).

The application has been submitted in outline with all matters reserved except access. The access proposals are considered to be acceptable, subject to securing additional links in a s106 legal agreement, to enhance the connectivity of the scheme to its surroundings. The s106 agreement must also secure 35% affordable housing and various other infrastructure, as set out above in this report.

Whilst an Illustrative Layout plan has been submitted, it is for information purposes only, and the final layout of the scheme, together with all other detailed design considerations, including open space and landscaping, will be subject to future reserved matters applications. These detailed proposals will be subject to Design Review through the Exeter Design Quality Partnership (EDQP). The reserved matters application(s) will be publicised, so that the local community can review the detailed design of the scheme and comment if they wish.

## **18.0 Recommendation**

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

- 35% affordable housing (at least 25% First Homes, 70% social rented and the remaining balance as intermediate)
- £1,195 per dwelling (up to £418,148) for additional healthcare services provided by Royal Devon University Healthcare NHS Foundation Trust
- £719.79 per dwelling (up to £251,927) for Special Education provision by Devon County Council Children's Services
- £584 per dwelling (up to £204,288) to provide additional capacity at local healthcare facilities in accordance with the comments by NHS Devon CCG
- £15,000 to Devon County Council for parking restrictions
- £1,359.51 per affordable dwelling to mitigate the impact of the development on the Exe Estuary SPA and the East Devon Pebblebed Heaths SAC and SPA
- Unencumbered vehicle and pedestrian/cycle link to the north-east site boundary.
- Pedestrian/cycle links to existing pedestrian/cycle path running adjacent to the northwest site boundary
- Public open space and play provision in accordance with the comments from the Public & Green Spaces Team

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

And the following conditions:

*(Details to be provided on the Additional Information Update Sheet before Planning Committee)*

### **B) REFUSE PERMISSION FOR THE REASON SET OUT BELOW IF THE LEGAL AGREEMENT UNDER SECTION 106 OF THE TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED) IS NOT COMPLETED BY 16 JULY 2023**

## **OR SUCH EXTENDED TIME AS AGREED BY THE CITY DEVELOPMENT MANAGER**

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

- 35% affordable housing (at least 25% First Homes, 70% social rented and the remaining balance as intermediate)
- £1,195 per dwelling (up to £418,148) for additional healthcare services provided by Royal Devon University Healthcare NHS Foundation Trust
- £719.79 per dwelling (up to £251,927) for Special Education provision by Devon County Council Children's Services
- £584 per dwelling (up to £204,288) to provide additional capacity at local healthcare facilities in accordance with the comments by NHS Devon CCG
- £15,000 to Devon County Council for parking restrictions
- £1,359.51 per affordable dwelling to mitigate the impact of the development on the Exe Estuary SPA and the East Devon Pebblebed Heaths SAC and SPA
- Unencumbered vehicle and pedestrian/cycle link to the north-east site boundary.
- Pedestrian/cycle links to existing pedestrian/cycle path running adjacent to the northwest site boundary
- Public open space and play provision in accordance with the comments from the Public & Green Spaces Team

the proposal is contrary to Exeter Core Strategy Policies CP7, CP9, CP16, CP17, CP18 and CP19, 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.