

Planning Committee Report 21/1940/OUT

1.0 Application information

Number:	21/1940/OUT
Applicant Name:	Mr David Lovell, Heritage Developments (South West) Ltd
Proposal:	Outline planning application for demolition of existing structures and construction of up to 30 no. residential units and associated infrastructure (Means of access to be determined with scale, layout, appearance and landscaping reserved for future consideration).
Site Address:	Land Adjacent To Newcourt Road Topsham Devon
Registration Date:	20 December 2021
Link to Application:	https://publicaccess.exeter.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=R4F8JXHBKMZ00
Case Officer:	Matthew Diamond
Ward Member(s):	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 relating to matters identified and subject to conditions as set out in report, but with secondary recommendation to REFUSE permission in the event the S106 Agreement is not completed within the requisite timeframe for the reason set out below.

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

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

4.0 Table of key planning issues

Issue	Conclusion
The Principle of the Proposed Development	The proposal has moderate conflict with Policy CP16 and saved Policy LS1, however this is outweighed by the benefits taking into account appeal ref. APP/Y11110/W/22/3296946 and the presumption in favour of sustainable development (NPPF 11).
Access and Impact on Local Highways	Paragraph 111 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. The Local Highway Authority is satisfied neither are applicable to the proposal despite concerns raised by local residents following recent planning permissions for housing along Newcourt Road. Officers are satisfied that safe and suitable access can be achieved to the site for all users.
Affordable Housing	The development will deliver 35% affordable housing in accordance with Policy CP7.
Noise	The site has low to medium adverse noise risk from the railway line and M5. An acoustic screen is suggested around part of the site. This will not be acceptable in publicly viewed areas on design/placemaking grounds. This will affect the layout at reserved matters stage. Alternative mitigation may be required for some dwellings. An Acoustic Design Statement should be conditioned as part of the reserved matters submission.
Impact on Trees and Biodiversity	A condition should be added to protect the hedgerow on site and trees adjoining the site during construction works. With the exception of the hedge the site has limited habitat value. Conditions should be added for

Issue	Conclusion
	updated surveys (being an outline application), a Construction and Environmental Management Plan and Biodiversity Enhancement Plan to ensure no harm to protected species and an overall net gain in biodiversity.
Contaminated Land	The site is unlikely to be contaminated. The standard condition should be added in case unidentified contamination is found during construction.
Archaeology	There could be archaeological features beneath the site. The Heritage Officer has recommended the standard archaeological condition.
Impact on Air Quality	Air quality at the site is within acceptable limits. Mitigation is proposed to deal with the cumulative traffic impacts. This is acceptable to Environmental Health. A Construction Method Statement should be conditioned, including measures to suppress dust soiling.
Flood Risk and Surface Water Management	The site is not at risk from flooding. The Lead Local Flood Authority is satisfied with the proposed drainage strategy, subject to a condition for further details at reserved matters stage. South West Water has confirmed it is able to provide foul sewerage services to the site.
Sustainable Construction and Energy Conservation	The developer has committed to energy conservation measures in the Design and Access Statement. The standard condition addressing Policy CP15 should be added. A Waste Audit Statement should be secured by condition.
CIL/S106	The development is CIL liable. A s106 legal agreement is necessary to secure affordable housing and infrastructure contributions to mitigate the impacts of the proposal in accordance with Policy CP18.

Issue	Conclusion
Development Plan, Material Considerations and Presumption in Favour of Sustainable Development	The application does not accord with the adopted Development Plan, as it conflicts with Policy CP16 and saved Policy LS1. However, the Council does not have a five year housing land supply and therefore the ‘tilted balance’ as set out in paragraph 11 of the National Planning Policy Framework 2021 (NPPF) applies. It’s considered that the policy conflict is modest and the adverse impacts do not ‘significantly and demonstrably’ outweigh the benefits in terms of the delivery of market and affordable housing on the site, which can be designed sensitively to fit in with the semi-rural setting.

5.0 Description of site

The site comprises an agricultural field to the east of Newcourt Road on the outskirts of Topsham. The site area is 1.44ha. It lies to the north of recently granted permissions [22/0269/FUL](#) (for 16 dwellings), [20/0437/FUL](#) (for 27 dwellings) and [20/0121/RES](#) (for 7 dwellings) along Newcourt Road. A further dwelling was granted under [21/1804/FUL](#) for the larger of these sites. A single dwelling was also granted further south along Newcourt Road ([21/0136/FUL](#)). The majority of these permissions have been implemented. Newcourt Road is a no through road with vehicle access from Denver Road 680m southeast of the site. The road has no footways adjacent to the site or to the south for approximately 170m. About 250m to the north it cross the M5 motorway.

The site is bounded by Newcourt Road to the southwest with a row of houses opposite, primarily bungalows/chalet bungalows. The former Rushmore Nursery lies to the northwest with a line of trees along the boundary. The site is bounded by the Avocet railway line to the northeast; beyond this is a housing site under construction for 155 dwellings ([17/1148/OUT](#) and [20/0849/RES](#)) and adjoining fields which were recently granted permission to be developed for up to 100 dwellings at appeal ([21/0894/OUT](#) / APP/Y1110/W/22/3296946). These sites are accessed from Clyst Road to the east. To the southeast is an agricultural field divided from the site by a post and wire fence. Beyond this are the housing sites mentioned above.

The site comprises species-poor permanent pasture and has been used for grazing. A hedge runs along the boundary with Newcourt Road. There are two sheds in the southern corner of the field in poor condition, between which is a gated access to the field from Newcourt Road. There are no trees on the site.

The site is within the strategic gap between Topsham and Exeter, one of the areas protected by Policy CP16 of the Core Strategy in terms of their character and local distinctiveness. It is located within the designated Landscape Setting area as shown on the Core Strategy Key Diagram and the Exeter Local Plan First Review 1995-2011 Proposals Map. Newcourt Road is designated a Site of Local Interest for Nature Conservation (SLINC) on the Local Plan First Review Proposals Map. It is also designated as a cycle route. The site is in Flood Zone 1. There are no above ground heritage assets within the vicinity of the site. The site has been graded as 'Medium' sensitivity to housing development in the Exeter Landscape Sensitivity Assessment (August 2022), which forms part of the evidence base for the new Exeter Plan.

The site is proposed to be allocated for housing together with the adjacent field to the southeast in the new Exeter Plan (Site Reference 92). However, no weight should be given to this, as the new Plan is not adopted and is at a relatively early stage in its preparation.

6.0 Description of development

The proposal is to develop the site for up to 30 dwellings, 35% of which will be affordable housing, and associated infrastructure. The application has been submitted in outline with all matters reserved except access. Vehicular access will be provided from Newcourt Road towards the south of the site, with adjoining 2m wide footways.

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

- Design and Access Statement (December 2021)
- Planning Statement (December 2021)
- Proposed Section 106 Heads of Terms (December 2021)
- Transport Statement (December 2021)
- Flood Risk Assessment and Drainage Strategy (November 2021)
- Extended Phase 1 Habitat Survey & Preliminary Ecological Appraisal (November 2021)
- Environmental Noise Impact Assessment (9th November 2021)
- Air Quality Screening and Dust Risk Assessment (19 November 2021)
- 'An archaeological magnetometer survey' report (3rd November 2021)
- Phase 1: Preliminary Contamination Assessment Report (November 2021)

Additional Information Submitted During Application

- Phase 1: Preliminary Contamination Assessment Report (February 2022)
- SRL letter dated 21 March 2022 re Air Quality Measures
- Landscape and Visual Assessment (April 2022)
- Flood Risk Assessment and Drainage Strategy Rev B (May 2022)
- Access Summary – Application Ref: 21/1940/OUT 205226-2023 Technical Note 01

8.0 Relevant planning history

There is no relevant planning history.

9.0 List of constraints

- Within strategic gap between Topsham and Exeter
- Within Landscape Setting area
- Noise from railway line
- Trees to the north
- Hedge along Newcourt Road
- Within 'zone of influence' for Exe Estuary SPA, East Devon Pebblebed Heaths SAC and East Devon Heaths SPA

10.0 Consultations

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

Natural England: Habitats Regulations Assessment required. Green infrastructure encouraged. General advice on protected species and other natural environment issues provided.

Network Rail: No objection in principle. Asset protection comments provided re drainage, landscaping, ground levels, foundations, ground disturbance, site layout, piling, excavations/earthworks and lighting.

RSPB: Biodiversity not addressed in Design and Access Statement. Guidance on number of integral nest boxes to be installed provided. Integral nest boxes should be secured.

South West Water: Clean potable water can be provided. Foul sewerage services can be provided from the existing public foul or combined sewer in the vicinity of the site. Surface runoff should discharge as high up the hierarchy of drainage options as is reasonably practicable; the proposed method to discharge into the ground is acceptable and meets the Run-off Destination Hierarchy.

Devon & Somerset Fire & Rescue Service: The drawings provided would not appear to satisfy the criteria required for B5 access under Building Regulations. B5 access to plots 24 and 25 should meet the requirements of paragraphs 13.1, 13.3 and 13.4 of ADB Vol 1. Early consideration should be given to the provision of fire hydrants.

Police Designing Out Crime Officer: Pleaced 'Secured by Design' has been referenced in the Design and Access Statement. Design recommendations provided for consideration at reserved matters stage.

NHS Devon CCG: The combined surgeries of Topsham Surgery and Glasshouse Medical Centre are already over capacity. S106 contribution of £584 per dwelling requested towards mitigation in accordance with '*Devon Health Contributions Approach: GP Provision document*'.

Royal Devon University Healthcare NHS Foundation Trust: S106 contribution of £18,196 sought towards additional healthcare services to mitigate the impact of the population increase caused by the development on the services it provides. It is essential this is paid prior to the occupation of the development.

Local Education Authority (DCC): S106 contribution of £3,702.30 per dwelling requested towards secondary provision at South West Exeter. This was later withdrawn.

Local Highway Authority (DCC):

Draft response dated 24 February 2022, received 20 April 2022

Trip generation for the proposed development has been assessed using a survey of the movements generated by the existing dwellings on Newcourt Road. This approach is appropriate, and the sample of 70 existing dwellings sufficient given the local relevance. The trip generation assessment carried out within the TS has shown a total increase in vehicular traffic of eight movements in each peak. This is not considered to be significant and therefore is unlikely to alter the existing operation of the local highway network.

Section 2 of the Transport Statement includes a review of Personal Injury Collision (PIC) data for the latest three full years (01/01/2018 – 31/12/2020). The review of PIC records is appropriate and proportionate to the scale of the proposed development, and no existing issues with highway safety identified.

Vehicular access to the site is proposed via a new simple T-junction with Newcourt Road. It is proposed that the junction be unlined, with no marked priority. This proposal is in accordance with design guidance set out in Manual for Streets 2 and is

appropriate in principle for the low traffic flows observed on Newcourt Road. Visibility splays have been provided for the proposed access junction with Newcourt Road. To achieve appropriate visibility splays, removal of vegetation and an existing shed to the east of the proposed access is required. Furthermore, long-term maintenance of cleared vegetation will be required to ensure adequate visibility is maintained at the proposed junction. For the proposed vehicular access onto Newcourt Road to be considered acceptable, a Stage 1 Road Safety Audit is required to be undertaken by the Applicant along with Designer's Response addressing any safety concerns raised.

There is no footway provision on Newcourt Road in the immediate vicinity of the proposed site access. Given the existing low traffic flows and 20mph speed limit on this road, the lack of footway is appropriate in principle and in alignment with MfS. The Transport Statement demonstrates that there is good accessibility both by foot and by bicycle to a range of local facilities within acceptable distances, including Topsham High Street.

The closest bus stops to the site are located within 700m, representing an eight minute walk. This bus stop has an acceptable level of service from the 57 Gold bus service which offers two buses an hour in each direction between Exeter and Exmouth.

Swept path analysis is provided in Appendix D, which demonstrates that a refuse vehicle is able to access the site via the proposed junction. However, as is shown in Appendix E, a refuse vehicle accessing the development site requires the full width of the proposed carriageway to travel round the bend on entry. There is concern that conflict may arise should a vehicle be exiting the site whilst a refuse vehicle tries to gain entry. This may represent an highways safety issue and consideration should be given to the provision of overrun areas on either side of the access junction for use by larger vehicles on the occasion where they are accessing the site whilst another vehicle is exiting. Further swept path analysis should be provided to demonstrate the size of the overrun areas required, and to ensure they are sufficient to allow the adequate passing of vehicles.

In line with Section 8 of the ECC Sustainable Transport SPD, a basic Travel Plan or Travel Pack is required to be produced for future residents of the development. As per paragraph 8.1.4. of the relevant guidance, the Travel Pack should include details of walking and cycling routes, as well as public transport including maps, timetables, and information about ticket offers. Where applicable, the required Travel Pack should also include information about car sharing schemes, car clubs, eco-driving and motorcycle safety. If required, DCC may be able to produce packs for developers upon payment of a financial contribution. There is no reference made to the required travel pack made in the submitted Transport Statement. The form and content of the travel pack is required to be approved by DCC prior to occupation of any proposed dwellings.

In conclusion, the Applicant is required to provide the following information before a recommendation can be given on this planning application in respect to highways:

1. A Stage 1 Road Safety Audit and Designer's Response for the proposed site access junction;
2. Amended site access drawings and updated swept path analysis which demonstrates that a refuse vehicle entering the site is able to pass a vehicle exiting the site; and
3. Commitment to provide a Travel Plan and Travel Pack to residents upon occupation.

Formal response dated 27 September 2022

After discussions with the Local Planning Authority and the developer, a solution to the third point (above) would be to ensure that this is captured within a suitable legal agreement should the members be minded to grant consent. This would mean that a Travel Plan would need to be agreed prior to first occupation.

Points 1 and 2 related to the access of the development and when considering that the development is for 30 dwellings and with the scale and the infrequency of the refuse vehicle and the relatively low level of vehicle movements along Newcourt Road, it would be unreasonable for the Highway Authority to continue to raise an objection to the application based on this after the developer had demonstrated in subsequent correspondence that the access would not pose a highway safety concern. Ergo, the Highway Authority does not raise an objection to the planning application due to lack of information or the need to provide additional information with regards to the access.

It should be noted that the original response by the Highway Authority does raise information that would be sensible to reiterate within this response, where section 5 relates to the Traffic impact and that it would not be considered to be significant and unlikely to alter the operation of the local highway network.

Taking the above into account, it would be unreasonable for the Highway Authority to raise an objection and should members be minded to grant planning consent, subject to a Travel Plan being secured within a suitable legal agreement, the following conditions should be attached to any decision notice.

Additional comments on revised access design and 2023 Technical Note

There is a requirement for the developer to provide a footway within the site to allow for any future developments to the north to link to so that it would allow for the

movements of non-motorised users (NMU'S) off the carriageway. I am aware that the applicant has provided a further drawing, drawing number 205226/PD01 Revision D, that shows that there will be a footway within the site to allow for the movements of the NMU's, and for the avoidance of doubt, the Highway Authority raises no objection to this and welcomes this. The updated drawing clearly shows the visibility splays and alignment and again for the avoidance of doubt, the Highway Authority raises no objection to this.

I have looked at the original Transport Assessment as since the consultation response originally provided by the Highway Authority, there have been further developments that have been consented to consider. There has been an increase of vehicle movements and there will an increase of vehicle movements when this development is taken into account. However, having reviewed this and taking all developments into account, I am satisfied that the level of vehicle movements in the AM/PM will not represent a significant highway safety concern as set out in the National Planning Policy Framework (NPPF) and that there is capacity within the existing highway for the additional vehicle movements in the AM/PM peak. Taking this development and the consented developments into account, it is likely that there will be a vehicle movement on average every 90 – 120 seconds in the AM/PM peak.

I am also aware that the applicant has provided a technical note which also covers this to set out the potential for additional vehicle movements and the Highway Authority is satisfied with this response for this development.

Lead Local Flood Authority (DCC): No in-principle objections. Condition recommended for soakaway test results, detailed drainage design, construction drainage details, adoption and maintenance details, exceedance flows plan, and SWW agreement.

Waste Planning Authority (DCC): A condition should be added to secure a Waste Audit Statement at reserved matters stage.

Environmental Health (ECC): The cumulative impact on air quality has not been considered. The contaminated land risk assessment does not adequately considered sources associated with an orchard and agricultural use, including pesticides and herbicides. The noise assessment proposes an acoustic barrier along part of the site boundary. Full details of this will be have to be submitted as part of the information to discharge the noise condition suggested, but it will also affect the site layout and landscaping. If the presence of a boundary acoustic barrier is likely to affect any other matters of relevance to this outline application then it might be necessary to seek further details at this stage.

Following the submission of further information on the possibility of contamination from the former agricultural use of the site concluding that no unacceptable risks are likely, recommended the standard unsuspected contamination condition.

Following the submission of further information on air quality measures, recommended condition to implement measures; this can be included as part of green travel planning condition or separate.

Local Plans Team (ECC): This proposal is considered to be contrary to policies LS1 of the adopted Local Plan Review, CP16 of the adopted Core Strategy and DD29 of the publication version Development Delivery DPD. Whilst the weight to be attributed to LS1 is limited it still forms part of the Statutory Development Plan. DD29, is also of limited weight due to its lack of progress through the plan-making process (the document reached 'Publication Stage'). However Policy CP16 has full weight and protects this area from development that will harm the character and local distinctiveness of the area.

Previous appeals on adjacent sites will be relevant to determining this application. It will be for the case officer to determine the weight to be attributed to policies.

Heritage Officer (ECC): The application includes the results of geophysical gradiometer survey. The results of the survey provide a useful indicator of the potential constraint of previously unknown archaeological remains; the site appears to contain several linear landscape features, probably bank and ditches of indeterminate date. The orientation scale of the features suggests that they are land divisions which are likely to be of local or regional importance dependent on date. I advise that the site should be subject to further intrusive evaluation in order to inform a robust mitigation strategy in line with the provisions set out in the NPPF. These works could be secured by the inclusion of the standard condition on any outline consent.

Public & Green Spaces Team (ECC): As there are no LEAPs or NEAPs within an acceptable walking distance of the proposed development at land adjacent to, Newcourt Road, which itself is not appropriate for on-site play provision, we would seek a financial contribution towards the expenditure of new play provision in the locality (we have suggested the parcel of land to the south, should it come forward for development). Based on build costs of £100K, 30 years' operation maintenance (calculated on current ECC rates), and refurbishment every 10 years, we would request £511 per dwelling.

11.0 Representations

71 objections were received raising the following issues:

- Increase pressure on Newcourt Road, which is used intensively by pedestrians and cyclists
- Newcourt Road has no pavements in the narrow parts, inadequate lighting and few passing places

- Recent housing developments have caused congestion
- Impact on utilities
- Will result in additional 60 cars going up and down Newcourt Road
- Newcourt Road has highway safety issues
- Intrusion into countryside
- Impact on wildlife
- Newcourt Road/Denver Road is a tight junction – cannot cope with more traffic
- Lack of adequate access
- Impact on infrastructure – schools and GP at capacity
- Site has noise and drainage issues
- Site forms vital part of the green separation between Topsham and Exeter (Policy CP16)
- Newcourt Road almost unusable at peak times
- 8 additional cars in morning peak hour is unrealistic
- Traffic report methodology flawed
- Newcourt Road should be protected for sustainable travel
- Existing drainage system under stress – impact on existing residents of road closures
- Loss of ‘green gap’ – impact on environment/wellbeing
- Noise from M5/railway
- Substantial distance from primary schools
- Hedge has significant ecological value
- Impact on privacy
- Noise from M5 will bounce back from walls of new housing and adversely affect existing houses
- Sufficient car parking should be provided
- Impact on rural character/distinctiveness/appearance/visual amenity
- Newcourt Road far too narrow for the increased traffic
- Dog walkers use the road
- Parked cars along road make visibility along road difficult
- Brownfield sites are a better alternative
- Cars already park on the pavement
- Impact on peoples’ mental health
- GP surgeries already over capacity by over 700 patients
- 2018 traffic analysis will be out of date when 30 new houses are finished
- Demographics of new housing will differ from existing, so traffic analysis inappropriate
- Newcourt Road used as a pleasant walking route and to visit Millennium Woodland
- 2/3 storey buildings will be out of character
- Understood junction with Denver Road would be at capacity with already approved housing
- Impact on sunlight to existing houses
- 10% biodiversity net gain required

- Impact on protected species/wildlife
- Access to Newcourt Road not wide enough – cars need to back up on Denver Road if large vehicle approaches
- Initial section of Newcourt Road does not have a pavement
- Impact on cyclists
- Construction impacts – noise, dust, construction vehicles
- Impact on nearby holiday let
- Counter policy to tackle climate change
- Additional traffic on High Street and Elm Grove Road junctions
- Development should be car-free
- Contrary to Policies LS1 and CP16
- Will increase water run-off
- Proposed dwellings will adversely affect ambient noise in area
- High density design will impact character of area
- No mains sewerage or gas – disruption from laying pipes
- Overdevelopment
- Council now has 5 year land supply, so should be refused in accordance with policy
- Contrary to policy DD29
- Important to protect what remains of Topsham Gap
- Currently only pavement between nos. 8 and 44
- Too far along Newcourt Road for easy access to facilities
- Sewers at breaking point and regularly overflow
- Loss of green space
- Piecemeal/speculative development
- 35% affordable unlikely to be delivered
- Flooding occurs due to surface water runoff
- SWW discharge untreated sewerage into Rive Exe
- Chiefs rugby fans park at top of road to cut through to stadium
- Contrary to Policies LS1, CP16, CP17 and DD29
- Traffic volume data in Transport Statement completely misleading as it refers to (arguably very poor) data from 2018
- Road used by school children
- Cyclists frequently dodge cars
- Most properties between 1 and 19 directly abut highway with no pavement
- Will add to urban sprawl
- New country park (like Dawlish) required
- Loss of important trees
- Members should visit Newcourt Road

One objection was from the Topsham Society raising the following issues:

- Located in Topsham Gap protected by Policies LS1 and CP16
- The Council can now demonstrate a 5 year housing land supply

- Argument Newcourt Road is a “shared surface” is a gross distortion of Manual for Streets – Newcourt Road is not a Pedestrian Priority Area, it is a formal carriageway
- Section of Newcourt Road approaching Denver Road is hazardous
- Junction with Denver Road at capacity and hazardous for pedestrians
- Will add to traffic congestion in wider area, including Junction 30 of M5
- Will damage rural appearance of Newcourt Road
- Will have a significant impact on wildlife

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

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
 Housing for older and disabled people
 Housing supply and delivery
 Land affected by contamination
 Light pollution
 Natural environment
 Noise

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)

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

CP3 – Housing

CP4 – Density

CP5 – Mixed Housing

CP7 – Affordable Housing

CP9 – Transport

CP11 – Pollution

CP12 – Flood Risk

CP14 – Renewable and Low Carbon Energy

CP15 – Sustainable Construction

CP16 – Green Infrastructure, Landscape and Biodiversity

CP17 – Design and Local Distinctiveness

CP18 – Infrastructure

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

AP1 – Design and Location of Development

AP2 – Sequential Approach

H1 – Search Sequence

H2 – Location Priorities
H7 – Housing for Disabled People
L4 – Provision of Youth and Adult Play Space in Residential Development
T1 – Hierarchy of Transport Modes
T2 – Accessibility Criteria
T3 – Encouraging Use of Sustainable Modes
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
EN5 – Noise
DG1 – Objectives of Urban Design
DG4 – Residential Layout and Amenity

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) (Not Adopted)

S1 – Spatial Strategy
CE1 – Net Zero Exeter
CE3 – Flood Risk
H1 – Housing Requirement
H2 – Housing Allocations
STC1 – Sustainable Movement
STC2 – Active and Sustainable Travel in New Developments
STC3 – Active Travel Proposals
STC5 – Digital Communications
NE1 – Landscape Setting Areas
NE3 – Biodiversity
NE4 – Green Infrastructure
HH1 – Conserving and Enhancing Heritage Assets

H1 – Health and Wellbeing
IC1 – Delivery of Infrastructure

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)
Trees and Development SPD (Sept 2009)

Devon County Council Supplementary Planning Documents:

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

Exeter City Council Annual Infrastructure Funding Statement 2021/22
Exeter City Council First Homes Planning Policy Statement (June 2021)
Net Zero Exeter 2030 Plan (Exeter City Futures, April 2020)
Green Infrastructure Study (April 2009)
Green Infrastructure Strategy – Phase II (December 2009)
Exeter Landscape Sensitivity Assessment (August 2022)
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.

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

- 35% affordable housing (10 dwellings if 30 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).
- £511 per dwelling towards construction and maintenance of new play provision in locality
- £607 per dwelling for additional healthcare services provided by Royal Devon University Healthcare NHS Foundation Trust
- £584 per dwelling to provide additional capacity at local healthcare facilities in accordance with the comments by NHS Devon CCG
- £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. Affordable Housing
4. Noise
5. Impact on Trees and Biodiversity
6. Contaminated Land
7. Archaeology
8. Impact on Air Quality

9. Flood Risk and Surface Water Management
10. Sustainable Construction and Energy Conservation
11. CIL/S106
12. Development Plan, Material Considerations and Presumption in Favour of Sustainable Development

1. The Principle of the Proposed Development

The site lies within the Landscape Setting area protected by Policy CP16 and saved Policy LS1. The former protects the character and local distinctiveness of the strategic gap between Topsham and Exeter while the latter protects the landscape setting of the city and restricts development to certain types of development not including residential unless its concerned with change of use, conversion or extension of existing buildings. Limited weight can be given to saved Policy LS1, as the part restricting development to certain purposes is inconsistent with the NPPF and Policy CP16. Members can give full weight to Policy CP16 however.

Officers commissioned a chartered landscape architect to review the proposal. Their report states that the site is not inherently highly sensitive, but it has an anti-coalescence role which helps to maintain the perception of Topsham and Exeter being separate. It concludes that if the site is developed there would be a harmful erosion of the perception of the open character of the site and an unacceptable impact on the anti-coalescence role of the Gap. The development would also harm the character and local distinctiveness of this rural fringe area. The application therefore conflicts with Policy CP16.

Since the chartered landscape architect's report was received, the site to the northeast on the other side of the railway line was granted planning permission at appeal (ref. [21/0894/OUT](#)). The Inspector considered that this application had moderate conflict with Policies CP16 and LS1, but this was outweighed by the benefits of delivering market and affordable housing, taking into account the Council's lack of a five year housing land supply (currently c.4 years). The Inspector took into account that a 'gap' would still remain beyond the site and views of the site were limited, plus the landscape was not considered to be highly sensitive.

Officers agree with the chartered landscape architect that the proposed development will conflict with Policy CP16, as it will adversely affect the character and local distinctiveness of this part of the strategic gap. However, the undeveloped land to the north will retain a physical 'gap' between Topsham and Exeter. The trees along the northern boundary block views of the buildings and infrastructure forming part of the City, therefore the proposed development will not result in a strong perception of coalescence. The site has an open, pleasant rural character, however it is not highly sensitive in landscape terms and the new housing that has been allowed on the other side of the railway line will reduce the sense of openness and connection to the wider countryside. Housing already exists opposite the site and it's considered that a high

quality scheme can be designed that includes trees and open space that complements the semi-rural setting. Accordingly the conflict with Policy CP16 is considered to be moderate.

Paragraph 11 of the NPPF states that decisions on planning applications should apply a presumption in favour of sustainable development. If a Council does not have a five year housing land supply, this means permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole. In the above appeal, the Inspector gave significant weight to the delivery of new market housing and substantial weight to the affordable housing. Moderate weight was given to biodiversity enhancement and there would be modest benefits to the local economy. The same applies to the current application. Therefore, it is considered that the adverse impact of moderate conflict with Policy CP16 does not significantly and demonstrably outweigh the planning benefits of the proposal.

Provided there are no other adverse impacts that significantly and demonstrably outweigh the benefits, the proposal is considered to be acceptable in principle despite the conflict with Policy CP16.

2. Access and Impact on Local Highways

The majority of objections have raised concerns over the impact the traffic generated by the proposed development will have on the safety and functionality of Newcourt Road and its junction with Denver Road. Newcourt Road is a narrow rural lane with some sections without footways meaning pedestrians and cyclists share the carriageway with vehicles. It is apparent from the objections that pedestrian and cycle movements along the road have increased in recent years from the influx of new housing in the wider area. People use the route for recreation and as a walking/cycling route to schools. It is also apparent that there has been inconvenience from construction traffic associated with the recent housing developments further down the road.

Paragraph 111 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. The proposal is predicted to generate eight traffic movements in each peak hour. Taking into account the recently approved applications on Newcourt Road, the Local Highway Authority has stated that it is likely that there will be a vehicle movement on average every 90-120 seconds in the AM/PM peak hours. The Local Highway Authority is satisfied that this will not represent a significant highway safety concern as set out in the NPPF and that there is capacity within the existing highway for the additional vehicle movements in the peak hours.

The original access design did not have footways; it was designed as a shared surface because of the low level of vehicle movements along Newcourt Road, particularly to the north due to fewer dwellings using this stretch. This was accepted by the Local Highway Authority, however officers requested the access be redesigned to include footways, consistent with the new housing developments to the south. Officers also requested scope for a segregated path through the site as an alternative to walking along Newcourt Road. The revised access design is considered acceptable by the Local Highway Authority.

The proposed development will add more traffic to Newcourt Road up to the new access. In terms of pedestrian safety, there will be no footways from the access south for approximately 170m until the footway designed as part of the Yeoman Gardens development (ref. 22/0269/FUL), which will connect to the footway to the front of the adjoining housing developments. From here, there is a pedestrian/cycle link into the new housing estate south of Newcourt Road, which includes a pedestrian/cycle path to the pedestrian/cycle path along Exeter Road. This provides a safe walking/cycling route into Topsham, as an alternative to continuing southeast along Newcourt Road. Whilst the existing footway continues southeast along Newcourt Road, the first stretch from Denver Road up to the bend has no footways. The proposed development will add more traffic to this stretch and existing residents living at the southern end of the road are more likely to continue to walk along it than go back up the road to the pedestrian/cycle link south to Exeter Road. The question is will the traffic generated by the proposal make the existing situation significantly worse in terms of safety. The Local Highway Authority has raised no objection, due to the low number of traffic movements the proposal will generate. Therefore, officers consider this to be acceptable.

In terms of the 170m stretch of the road without footways immediately south of the site access, there are/will be fewer traffic movements along this stretch compared to the southern stretch due to fewer houses using it, although some objectors have referred to parking by Exeter Chiefs supporters on match days further up the road. This part of the road is straight with relatively good visibility. The Local Highway Authority has raised no concerns with the lack of footways here, therefore it is considered to be acceptable.

In conclusion, it is considered that safe and suitable access can be achieved for all users, in accordance with paragraph 110 of the NPPF. The development will not cause an unacceptable impact on highway safety and the cumulative impacts on the road network will not be severe. Therefore the application should not be refused on these grounds. There are opportunities to utilise sustainable modes of travel in the area and a condition for a Travel Plan should be conditioned to promote this to residents.

3. Affordable Housing

Policy CP7 requires 35% of the housing to be affordable 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 10 affordable dwellings on the site, comprising 7 social rent and 3 First Homes. 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.

Provided the obligations above are secured in a s106 legal agreement, the proposal will accord with Policy CP7.

4. Noise

The submitted Environmental Noise Impact Assessment states that the site has low to medium risk of adverse impact due to transport noise from the railway line and M5. It proposes an acoustic screen around the edge of the site to mitigate noise impact on the proposed dwellings, although states this will be most effective along the eastern boundary adjacent to the railway line. However, an acoustic fence will not be appropriate in design/placemaking terms in public areas. It may be appropriate forming the rear boundaries of gardens where it is not visible in the public domain. Therefore, it will affect the layout of the development to be determined at reserved matters stage. It maybe that alternative mitigation will be necessary depending on the final layout of the scheme.

Environmental Health has recommended a pre-commencement condition for an updated Acoustic Design Statement, including assessment of overheating conditions, however it's considered that this should be changed to require the report as part of the submission of reserved matters in order to guide the layout of the development.

5. Impact on Trees and Biodiversity

There are no trees on site, however there is a hedgerow running along the west boundary and trees adjacent to the north boundary. A condition should be added to ensure these are protected during the construction stage.

The submitted ecology report states that surveys were carried out on 30 August 2019 and 3 November 2021. It states that bats are likely to use the margins of the site for foraging, particularly the north margin, and the corrugated iron shed on the site needs to be surveyed to determine if it contains bat roosts. There is evidence of badgers using the site for foraging, but no setts. There is no evidence of other

protected mammal species. The hedge along the west boundary is likely to be used by birds for nesting. The site is unsuitable for reptiles. Overall with the exception of the hedge the site has limited habitat value. Mitigation/enhancement is proposed in the form of: soft landscaping, including insect attracting trees, shrubs and herbs; new native species hedge or narrow strip of woodland along east boundary with railway; continued management of existing hedge along west boundary; 12 integrated roost bricks in four houses; sparrow nest boxes under the eaves of some of the houses; and 10 nest boxes on trees growing within the northern hedge (subject to agreement with adjoining landowner). These measures can be included in a LEMP or BMEP to be secured by condition.

Natural England guidance '*Protected species and development: advice for local planning authorities*' states:

“In exceptional cases, you may need to attach a planning condition for additional surveys. For instance, to support detailed mitigation proposals or if there will be a delay between granting planning permission and the start of development. In these cases a planning condition should be used to provide additional or updated ecological surveys to make sure that the mitigation is still appropriate. This is important for outline applications or multi-phased developments.”

Given the application is in outline and the age of the surveys carried out, it's considered a condition should be added requiring an extended phase 1 habitat survey and survey of the corrugated iron shed prior to commencement of development to ensure that the ecological conditions of the site are known before construction commences. A further condition should be added for a Construction and Environmental Management Plan in accordance with BS 42020:2013 'Biodiversity – Code of practice for planning and development' to include mitigation measures for any protected species identified through the additional survey work. A further condition should be added for a Biodiversity Enhancement Plan in accordance with paragraphs 174 and 180 of the NPPF.

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.

6. Contaminated Land

The revised Preliminary Contamination Assessment Report states that there is no probable source of significant contamination at the site, therefore the anticipated levels of contamination are unlikely to be harmful to human health. In addition, no radon or ground gas protection measures are required. Environmental Health has recommended the standard condition is added in case unidentified contamination is found.

7. Archaeology

The archaeological survey shows several linear landscape features, which are most likely bank and ditches that formed land divisions historically. These are likely to be of local or regional importance dependant on date. The Heritage Officer has recommended the standard archaeological condition accordingly.

8. Impact on Air Quality

The site is not within or near to the Air Quality Management Area (AQMA). The Air Quality Screening and Dust Risk Assessment confirms that the air quality at the site is within acceptable limits, however there is a high risk of dust soiling during construction and mitigation is recommended. This can be secured as part of the standard condition for a Construction Method Statement.

Environmental Health requested further information on the cumulative impact of the proposal with other approved developments on air quality. The applicant committed to the following mitigation measures:

- Good cycling infrastructure
- Good pedestrian network
- Low emissions boilers and services plant
- Develop a Travel Plan
- Provide new residents with a "Welcome Pack", preferably in electronic format, that encourages the use of sustainable transport and car-sharing, and other environmental incentives
- Infrastructure for EV charging

The Environmental Health Officer was satisfied with these and recommended a condition to secure them.

9. Flood Risk and Surface Water Management

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

Policy CP12 requires all development proposals to mitigate against flood risk utilising SuDS where feasible and practical. The proposed drainage strategy is to provide a soakaway by the site entrance and permeable subbase for all private drives and roads, except possibly for the areas closest to the railway line. If it is found that infiltration is not suitable for the site, an attenuated system is proposed that outfalls into the South West Water's infrastructure at a controlled rate. The Lead Local Flood Authority is satisfied with this information at this stage and recommended a condition for a detailed drainage design as part of the reserved matters following appropriate site testing.

In terms of foul sewerage, the applicant's report points out that it is highly unlikely that a connection is possible into the existing combined sewer along Newcourt Road, so the next option is to connect into the existing combined sewer located along Exeter Road via sewer requisition. However, South West Water in its response to the application confirmed that it is able to provide foul sewerage services from the existing public foul or combined sewer in the vicinity of the site.

10. 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 proposals will exceed the energy standards set out in Building Regulations providing highly insulated homes with efficient heating systems, careful natural and artificial lighting design and overall low energy use. It states the key strategies to the scheme will include:

- Zero Carbon Homes
- Triple Glazing throughout
- Air Source Heat Pumps
- Solar PV
- Electric car charging points
- Use of battery storage on site
- Extra high levels of thermal insulation to fabric of building

It states the design of the individual units will aim to achieve south facing properties where possible, the use of local materials in the construction of the site will be prioritised and the proposals will link with existing sustainable transport links, particularly cycle and pedestrian access routes.

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 at reserved matters stage.

11. CIL/S106

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 CIL levy will be calculated at reserved matters stage when the number and sizes of the dwellings are known.

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 70% social rent, 25% First Homes and any remainder as intermediate) plus a financial contribution for any fraction of a dwelling should the percentage of affordable housing not equate to a whole number – this will be calculated at reserved matters stage.
- £511 per dwelling towards construction and maintenance of new play provision in locality
- £607 per dwelling for additional healthcare services provided by Royal Devon University Healthcare NHS Foundation Trust
- £584 per dwelling to provide additional capacity at local healthcare facilities in accordance with the comments by NHS Devon CCG

- £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

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

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

The proposal is considered to conflict with Policy CP16 and saved Policy LS1 (although this policy carries limited weight), as it will adversely affect the character and local distinctiveness of part of the strategic gap between Topsham and Exeter. For the reasons discussed under '1' above the degree of conflict is considered moderate. The Council does not currently have a five year housing land supply, therefore the 'tilted balance' in favour of granting planning permission set out in paragraph 11d)ii of the NPPF applies. While fewer dwellings will be provided overall, consistent with the appeal decision received on 11 October 2022 for the site to the northeast on the other side of the railway line (ref. 21/0894/OUT), it's considered that significant weight should be given to the delivery of new market housing and substantial weight to the delivery of affordable housing (as defined in the glossary of the NPPF) on the site. It's considered that a high quality scheme can be delivered, which can be designed to complement the semi-rural setting with trees and green space; the developer will be expected to engage with the EDQP before submitting a reserved matters application. It's considered that safe and suitable access can be provided to the site, and the cumulative impacts in terms of traffic generation on the local road network will not be severe, and there would be no unacceptable impact on highway safety – these are the tests set out in paragraph 111 of the NPPF to refuse development on highways grounds. This follows the advice of the Local Highway Authority. Conditions will be added to ensure there will be no adverse impacts to biodiversity on the site during construction and that there will be biodiversity enhancement as part of the development. There will be some benefit to the local economy from the construction and operation of the development.

Therefore, on balance, the benefits of the proposal are considered to outweigh the modest harm in terms of the conflict with Policy CP16 and saved Policy LS1 (in so far as it has weight) with the 'tilted balance' engaged, i.e. the adverse impacts do not 'significantly and demonstrably' outweigh the benefits.

17.0 Conclusion

The proposal will conflict with Policy CP16 and saved Policy LS1 (in so far as it has weight) by developing part of the strategic gap between Topsham and Exeter, adversely affecting its character and local distinctiveness. However, the conflict is considered to be modest, as the site is not inherently sensitive in landscape terms, development of the site will not result in a strong sense of coalescence between the two settlements and a physical 'gap' will remain to the north/northwest, i.e. the undeveloped land between the site and the motorway. Taking into account the

recently allowed appeal for up to 100 dwellings on the site to the northeast on the other side of the railway line, it's considered that the benefits of the proposal outweigh the modest harm in terms of its conflict with Policy CP16 and saved Policy LS1.

Local residents have raised concerns over the impact of the additional traffic generated by the proposal on the safety and functionality of Newcourt Road, and its junction with Denver Road, following the recently approved housing developments further down Newcourt Road. Paragraph 111 of the NPPF states that development should only be refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. The Local Highway Authority is satisfied that neither are applicable to this proposal. Officers are satisfied that safe and suitable access can be achieved to the site for all users. A Travel Plan promoting sustainable modes of travel should be conditioned.

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 70% social rent, 25% First Homes and any remainder as intermediate) plus a financial contribution for any fraction of a dwelling should the percentage of affordable housing not equate to a whole number – this will be calculated at reserved matters stage.
- £511 per dwelling towards construction and maintenance of new play provision in locality
- £607 per dwelling for additional healthcare services provided by Royal Devon University Healthcare NHS Foundation Trust
- £584 per dwelling to provide additional capacity at local healthcare facilities in accordance with the comments by NHS Devon CCG
- £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

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 20 AUGUST 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 70% social rent, 25% First Homes and any remainder as intermediate) plus a financial contribution for any fraction of a dwelling should the percentage of affordable housing not equate to a whole number – this will be calculated at reserved matters stage.
- £511 per dwelling towards construction and maintenance of new play provision in locality
- £607 per dwelling for additional healthcare services provided by Royal Devon University Healthcare NHS Foundation Trust
- £584 per dwelling to provide additional capacity at local healthcare facilities in accordance with the comments by NHS Devon CCG
- £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

the proposal is contrary to Exeter Core Strategy 2012 policies CP7, CP10, CP16 and CP18, Exeter Local Plan First Review 1995-2011 saved policy L4, and Exeter City Council Affordable Housing Supplementary Planning Document 2014 and Exeter City Council Public Open Space Supplementary Planning Document 2005.