

# Planning Committee Report 25/0022/VOC

## 1.0 Application information

Number:	25/0022/VOC
Applicant Name:	Mr Harry Martin,
Proposal:	Variation of condition 1 to supersede affordable housing layout of approval 24/0317/RES (Approval of access, layout, scale, appearance and landscaping reserved matters pursuant to planning permission ref. 23/0584/OUT and additional details including lighting, drainage and bat/bird boxes)
Site Address:	Land South West Of Blakeslee Drive Exeter
Registration Date:	10 January 2025
Link to Documentation:	<a href="https://exeter.gov.uk/planning-services/permissions-and-applications/related-documents/?appref=25/0022/VOC">https://exeter.gov.uk/planning-services/permissions-and-applications/related-documents/?appref=25/0022/VOC</a>
Case Officer:	Mr Christopher Cummings
Ward Member(s):	Cllr Ellis-Jones, Cllr Rolstone, Cllr Williams

Reason Application is Going to Committee:

The Council's Constitution delegates minor variations of existing section 106 legal agreements (S106) to the Head of City Development, subject to consultation with the Chair of Planning Committee. The proposal is not considered to be a minor variation of a S106, therefore the decision must be made by the Planning Committee.

## 2.0 Summary of recommendation

Approval subject to conditions

## 3.0 Reason for the recommendation:

The increase in AH dwellings will provide a much-needed housing type for the city. Whilst the mix of AH tenures will alter, Core Strategy policy CP7 allows for this and the overall levels of social rented and intermediate housing will both increase above the existing approved levels. The S106 will be amended accordingly, with the specific wording change to a minimum of 35% due to grant funding requirements. The 100% AH level will be secured by approved plans and any deviation would need a further planning application.

Careful consideration of Community Infrastructure Levy (CIL) requirements have been undertaken and the loss of CIL would not be a material planning consideration in this instance as there are no infrastructure projects funded by CIL which are necessary to make the scheme acceptable.

The removal of the First Homes requirement from the S106 brings the legal agreement in accordance with the latest update to the NPPF, and the changes to the Mortgagee in Possession clause allow for greater funding opportunities for AH. The removal of the management company requirements and service charges for the public open space is also acceptable, with the site being operated by a single AH provider that will provide this service.

It is therefore considered that the proposed increase in AH provision from 35% to 100% is acceptable and the associated S106 modifications are appropriate and relevant to this change in AH level.

#### 4.0 Table of key planning issues

Issue	Conclusion
Principle of Development and Scope of Application	<p>The principle of development and details have been approved through 23/0584/OUT and 24/0317/RES.</p> <p>This application is to vary the approved plans condition to allow an increase in Affordable Housing delivery from 35% to 100% with associated updates to the S106 legal agreement.</p> <p>This assessment is therefore solely considered with the material impacts of these alterations.</p>
Affordable Housing Tenure Plan and Affordable Housing Level Increase	<p>Core Strategy policy CP7 requires a 35% Affordable Housing (AH) level with a 70%/30% split between social rented and intermediate housing.</p> <p>This proposal seeks an increase in AH to 100% and a change to the quantum and location of the AH units which will create a 55%/45% split across the site.</p> <p>The increase in AH is welcomed with the dwellings providing much needed accommodation. Whilst the tenure type is not the same, policy CP7 allows for deviation from this based on viability or feasibility. It is also relevant that there is an overall increase in AH properties for both types from that currently approved, increasing from 10 social</p>

Issue	Conclusion
	<p>rent to 22 social rent and 4 intermediate housing to 18 units.</p> <p>On balance this is therefore considered acceptable and provides an overall increase in AH properties of all required tenures when compared to the existing approval.</p> <p>The tenure layout is considered to be acceptable, allowing for clear ownership and maintenance responsibilities for the AH provider.</p> <p>The S106 Agreement will be revised to change the AH requirement from 35% to a minimum of 35%.</p> <p>The reason for this stating a minimum of 35%, rather than 100% is due to the grant funding being provided, which is only for the additional 65% AH units.</p> <p>The delivery of 100% AH is secured through the tenure plan on the decision notice and any variation from this would require a further planning application.</p> <p>The development is Community Infrastructure Levy (CIL) liable, however AH dwellings can apply for relief from this payment. The existing development would have a CIL liability of £360,208.75 and the 100% AH scheme would not pay any CIL.</p> <p>Having examined planning legislation, guidance and case law it has been confirmed that in some instances CIL can be a material planning consideration, but only if there is a direct relationship between a CIL funded project that would be necessary to make the scheme acceptable. In this instance there are no infrastructure projects in the Annual Infrastructure Funding Statement that are directly necessary to make this scheme acceptable and the CIL is therefore not a material consideration.</p>

Issue	Conclusion
S106 Revision to Remove First Homes	<p>Since the original approval a revised National Planning Policy Framework has been published that removes requirements for 25% of AH to be First Homes.</p> <p>The proposed removal of this aspect brings the S106 in accordance with national policy and is therefore considered to be a reasonable adjustment.</p>
S106 Revision to Mortgagee in Possession Clause	<p>A change to the Mortgagee in Possession Clause (MIP) is proposed to maximise the value of the development when using it to seek funding for AH projects.</p> <p>An MIP enables a lender, in the event of a default by the housing association to enforce its security and sell the mortgaged property free of the AH restrictions.</p> <p>The likelihood of a housing association getting into such a financial position is very low and the Council has taken a risk based approach and allowed similar modifications to other S106 Agreements.</p> <p>Research indicates that there is a significant difference in value between properties charged at the current 'Existing Use Value for Social Housing' (EUV-SH) and the proposed 'Market Value – Subject to Tenancy (MV-ST). Properties charged at EUV-SH obtain approximately 30% of the Market Value, whereas properties charged at MV-ST typically obtain 70% of Market Value.</p> <p>The replacement clause is an industry standard MIP which has been approved by the valuers (JLL and Savills), funders across the AH sector and the National Housing Federation.</p> <p>The variation is therefore considered acceptable. The risks have been found</p>

Issue	Conclusion
	to be very low and there are significant benefits of providing additional funding for AH providers which will help provide further AH within the city.
S106 Revision to Public Open Space Maintenance	<p>It is proposed to remove the public open space requirement for transfer of the land to a management company and the removal of service charge requirements.</p> <p>The site will be operated by a single AH provider and maintenance and other matters will continue to be their responsibility.</p> <p>There is an existing pre-occupation condition requiring a Landscape Ecological Management Plan that requires details of management, maintenance schedules and long-term objectives for these areas.</p>

## 5.0 Description of site

The application site is a 0.7 hectare parcel of land positioned bordered by Blakeslee Drive to the north-east and south-east. Newcourt Community Centre and Omaha Drive is to the north-west and there are trees and a golf course to the south-west. To the north-east, south-east and north-west there are dwellings.

The wider area sees the train-line to the east of the site, adjacent to Jack Sadler Way and the M5 to the south-east. There is no direct access to the M5 from this area or vehicular crossing points over the M5 either. There is a pedestrian footpath link across the M5 to the south, via Newcourt Road.

The existing site is a grassed area which was used as a compound during the construction of dwellings in the surrounding area. This saw the overall ground level of site built up along the north-eastern side. The overall site slopes downwards from north-east to south-west.

The site and the surrounding area is covered by a blanket Tree Preservation Order and is within the zone of influence for the protected marine sites

## 6.0 Description of development

Outline permission was granted on 01 March 2024 for up to 50 dwellings and associated open space and infrastructure (all matters reserved) under approval 23/0584/OUT.

The reserved matters application was granted on 27 June 2024 for 40 dwellings (including 14 affordable dwellings) under approval 24/0317/RES.

This proposal seeks to vary Condition 1 (Approved Plans) of approval 24/0317/RES, specifically the Affordable Housing tenure plan to create a 100% Affordable Housing scheme. This will alter the location of the Affordable Housing units through the development and the level of each type of Affordable Housing.

In addition the associated S106 Agreement will be adjusted to change the Affordable Housing requirement from 35% to a minimum of 35%, remove references to First Homes, update mortgagee exclusion clauses and amend the public open space maintenance responsibilities.

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

- Application form
- Updated drawing BLAK/2023 112 Rev P1 – Tenure Layout

## **8.0 Relevant planning history**

<b>Reference</b>	<b>Proposal</b>	<b>Decision</b>	<b>Decision Date</b>
23/0584/OUT	Outline application for development of up to 50 dwellings and associated open space and infrastructure (all matters reserved)	PER	01.03.2024
24/0317/RES	Approval of access, layout, scale, appearance and landscaping reserved matters pursuant to planning permission ref. 23/0584/OUT and additional details including lighting, drainage and bat/bird boxes	PER	27.06.2024
24/0375/DIS	Condition Discharge: Conditions 7 (updated ecological management and mitigation plan), 8 (CEMP), 9 (Contamination) and 12 (Waste Audit) of approval 23/0584/OUT	CPA	11.07.2024

24/0947/DIS	Condition Discharge: Condition 2 (Construction Management Plan) of approval 24/0317/RES	CFD	19.09.2024
24/0948/NMA	Non-material amendment: Revisions to Ashdown and Ashdown Corner house types approved under 24/0317/RES	PER	22.08.2024
24/0975/DIS	Condition Discharge: Part discharge of Condition 9 (contamination) of approval 23/0584/OUT in relation to part 2 remediation scheme	CPA	30.08.2024
24/1004/MDO	Modification to S106 Agreement to exclude First Homes	PCO	
24/1103/NMA	Non-material amendment to approval 23/0584/OUT to alter wording of Condition 5 from pre-commencement to pre-above ground works.	PER	18.11.2024
24/1110/NMA	Non-Material Amendment of 24/0317/RES to revert the amendments made on 24/0948/NMA to remove the proposed Ashdown corner and range back to an Ashdown Corner; to amend the schedule on the approved planning layout to correctly align with the housetype pack; to supersede the Silverdale housetype drawing on plot 1 with a Barnwood housetype drawing to correctly match the approved planning layout; and to supersede the Chiltern housetype for plots	PER	14.10.2024

4,12 and 24 with the Deepdale housetype.

24/1218/DIS	Discharge condition 3 (Materials) of reserved matters approval 24/0317/RES (Approval of access, layout, scale, appearance and landscaping reserved matters pursuant to planning permission ref. 23/0584/OUT and additional details including lighting, drainage and bat/bird boxes)	PER	19.12.2024
24/1455/NMA	Non-material amendment to amend Condition 1: Approved Plans to add 105_P1_Phasing Plan in relation to approval 24/0317/RES (Approval of access, layout, scale, appearance and landscaping reserved matters pursuant to planning permission ref. 23/0584/OUT and additional details including lighting, drainage and bat/bird boxes)	PER	17.12.2024
24/1525/DIS	Discharge condition 16 (Materials) of planning permission 23/0584/OUT - Outline application for development of up to 50 dwellings and associated open space and infrastructure (all matters reserved)	CFD	02.01.2025

## 9.0 List of constraints

The site and the surrounding area is covered by a blanket Tree Preservation Order and is within the zone of influence for the protected marine sites



## **10.0 Consultations**

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

ECC Housing - No objection to variation of S106 Agreement to 100% Affordable Housing or removal of First Homes.

ECC Policy – No objection raised

## **11.0 Representations**

None received

## **12.0 Relevant policies**

### National

National Planning Policy Framework (December 2024)

Planning Practice Guidance

National Design Guide

### Development Plan

Exeter Local Plan First Review (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 Playing Pitches

T1 – Hierarchy of Modes

T2 – Accessibility Criteria T3 – Encouraging Use of Sustainable Modes

LS2 – Ramsar/Special Protection Area

LS4 – Nature Conservation

EN3 – Air and Water Quality

EN4 – Flood Risk

EN5 – Noise

DG1 – Objectives of Urban Design

DG2 – Energy Conservation

DG4 – Residential Layout and Amenity

DG5 – Provision of Open Space and Children's Play Areas

DG6 – Vehicle Circulation and Car Parking in Residential Development

DG7 – Crime Prevention and Safety

Exeter Core Strategy (February 2012):

CP1 – Spatial Strategy

CP3 – Housing

CP4 – Density

CP5 – Mixed Housing

CP7 – Affordable Housing

CP9 – Transport

CP11 – Pollution

CP12 – Flood Risk

CP13 – Decentralised Energy Networks

CP15 – Sustainable Construction

CP16 – Green Infrastructure, Landscape and Biodiversity

CP17 – Design and Local Distinctiveness

CP18 – Infrastructure

CP19 – Strategic Allocations

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

W4 – Waste Prevention (*applies to planning applications for major development*)

W21 – Making Provision for Waste Management (*applies to major non-waste development*)

Other material considerations

Affordable Housing SPD

Sustainable Transport SPD

Planning Obligations SPD

Public Open Space SPD

Residential Design Guide SPD

Trees and Development SPD

First Homes Planning Policy Statement

Emerging Exeter Plan (Regulation 19)

### **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 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

Affordable housing, 40 dwellings

NHS Devon Integrated Care Board - £652 per dwelling for additional GP space.

DCC Education –There is suitable capacity within schools due to the opening of Monkerton Primary School and the imminent opening of Matford Brook Academy and mitigation for the increase in school aged occupants is not required.

DCC Highways - £5000 for a TRO to cover double yellow lines etc. in the surrounding area. An obligation has been agreed to widen the corner where Omaha Drive and River Plate Road meet.

35% Affordable Housing delivery level for the development.

Mitigation for Affordable Housing recreational impact on Protected Marine Sites.

Play Areas - £287.32 per dwelling towards enhancement and future maintenance of Omaha Drive play area

Employment during construction of the development.

#### Non material considerations

CIL contributions

The adopted CIL charging schedule applies a levy on proposals that create additional new floor space over and above what is already on a site. This proposal is CIL liable.

The rate at which CIL is charged for this development is £139.64 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.

It should be noted that there is

a 100% social housing relief on any parts of a chargeable development which are intended to be used as social housing.

The proposal will generate Council Tax.

## **16.0 Planning assessment**

### Principle of Development and Scope of Application

1. The principle of development and the details have been previously approved through applications 23/0584/OUT and 24/0317/RES.
2. This application is to vary the approved plans condition of 24/0317/RES to increase the Affordable Housing (AH) level from 35% to 100%. Alongside this, there are proposed variations to the agreed S106 Agreement including changing the level of AH from 35% to a minimum of 35%, removal of the reference to First Homes, updating the mortgagee exclusion clauses and amending the responsibility for public open space management.
3. As this is a variation to the existing approval, this application is only concerned with material considerations relating to the changes, with all other matters already considered to be acceptable due to the extant permission.

### Affordable Housing Tenure Plan and S106 Revision

4. Core Strategy policy CP7, as amended by the First Homes Planning Policy Statement states that developments of 10 or more dwellings must provide 35% AH. Of that 35% at least 70% should be social rent and the remaining 30% should be intermediate affordable housing. It continues, noting that the overall percentage of AH and the tenure split will be subject to considerations of viability and feasibility.
5. The proposal seeks to change the development from 35% AH to 100% AH. As there is an associated S106 Agreement stating that 35% AH must be provided there is a need to update the legal agreement alongside this application.
6. As part of this change in AH provision it is also proposed to reconfigure the percentage of each AH type being delivered.
7. The original proposal saw 35% AH, split 70% social rent and 30% intermediate housing. This equated to 14 dwellings, split as 10 social rent and 4 intermediate housing (3 First Homes and 1 shared ownership).
8. The proposed amendment will see 100% AH, with the total 40 dwellings split into 22 social rent and 18 intermediate housing (shared ownership). This results in a 55% social rent and 45% intermediate housing.

9. Whilst this does not match the 70/30 level of policy CP7, it should be noted that the policy does allow for the tenure split to be modified. In considering this, it is relevant to compare the existing and proposed levels, which results in an overall gain of AH dwellings for each dwelling type, compared to that of the original approval, with an overall increase of 12 social rent and 14 intermediate dwellings.
10. There is a significant demand for affordable housing of all types within the city and therefore whilst there is a deviation from the recommended 70/30 AH split, the overall increase on both social housing and intermediate dwellings compared to that original approved is considered, on balance, to be acceptable.
11. The S106 agreement will be modified in line with the update to the tenure plan and it is proposed to change the wording from a 35% AH requirement to a minimum of 35% AH requirement. Whilst it may appear unusual that 100% AH is not being secured through the S106 Agreement, this is because the grant funding for the development only covers the additional 65% on top of the original 35% AH. Without wording the S106 in this way, it is unlikely that 100% AH would be able to be delivered due to the particular requirements of the funder. However, the overall scheme has additional measures to secure the 100% AH, through the updated tenure plan which will be an approved drawing. Should the developer wish to provide any non-AH properties then they would need to submit a new S73 application to vary the approved plans condition and the tenure plan.
12. The layout plan will see the shared ownership and social rent locations altered from that previously approved. This is based on the requirements of the Registered Provider (RP) and the type of properties they are seeking for social rent. This is considered to be an acceptable layout, allowing clear ownership and maintenance responsibilities for the RP on the social rent properties.
13. The development is liable for Community Infrastructure Levy (CIL), however AH dwellings can apply for relief from this payment. The development as existing would have had a CIL liability £360,208.75 for the 26 market dwellings, however a 100% AH scheme would not pay any CIL. It is therefore necessary to understand whether CIL is a material planning consideration and this loss can be included in this assessment.
14. Section 70(2) of the Town and Country Planning Act 1990 (as amended) states that in dealing with an application for planning permission the authority should have regard to 'any local finance considerations, so far as material to the application'. Section 70(4) defines local finance considerations and includes CIL payments.

15. Further guidance is provided in the Planning Practice Guidance (PPG), Paragraph 011 (Reference ID: 21b-011-20140612), which states that 'whether or not a 'local finance consideration' is material to a particular development will depend on whether it could help make the development acceptable in planning terms. It would not be appropriate to make a decision based on the potential for the development to raise money for a local authority or other government body'.
16. It is therefore possible for CIL to be a material consideration, but only if it is directly linked to the delivery of something that would otherwise make the scheme unacceptable.
17. Caselaw has provided further clarity on this matter, such as 'Good Energy Generation Limited v (1) SSCLG and (2) Cornwall CC [2018] EWHC', which noted that the proposed CIL benefits were too remote and uncertain to be a material consideration. A further example is R (on the application of Wright) v Forest of Dean DC & Resilient Energy Severndale Limited [2017] which noted that as CIL was not restricted to being used specifically for a planning purpose it could not be a material consideration.
18. In relation to the development being assessed it is therefore necessary to understand whether the CIL funding is for a project that is necessary to make the proposal acceptable. This is contained in the Annual Infrastructure Funding Statement, with the most recent being the 2023/24 report. Having examined the report in detail there are no CIL infrastructure projects that are directly necessary to find this proposal acceptable.
19. For these reasons, in this instance it is concluded that CIL is not a material consideration in the assessment of this development.
20. It is considered that the increase in Affordable Housing will provide a much needed dwelling type for the city. Whilst the split between social rent and intermediate housing is not at the preferred level set out in Core Strategy policy CP7 both aspects are an increase on the level previously approved. It is therefore an acceptable revision to the development.

#### S106 Revision to remove First Homes

21. The application also seeks to remove First Homes from the mix of intermediate affordable housing provided by the development.
22. Since the approval of 24/0317/RES a revised National Planning Policy Framework has been published. This revision removed the reference to the

Written Ministerial Statement on Affordable Homes Update (24 May 2021) which contained a policy requirement of 25% First Homes.

23. The proposed revision therefore seeks to bring the S106 in line with updated national policy. This is considered to be a reasonable adjustment and therefore acceptable.

#### S106 Revision to Mortgagee in Possession Clause

24. The proposed change to the Mortgagee in Possession Clause (MIP) is to maximise the value of the development when using it to seek funding for Affordable Housing projects.
25. An MIP enables a lender, in the event of a default by the housing association under its loan agreement, to enforce its security and sell the mortgaged property free of the AH restrictions. The likelihood of a housing association getting into such a financial position is very low and the Council has taken a risk-based approach and allowed similar modifications to other S106 Agreements throughout the city to promote much needed investment in AH.
26. Research indicates that there is a significant difference in value between properties charged at the current 'Existing Use Value for Social Housing' (EUV-SH) and the proposed 'Market Value – Subject to Tenancy (MV-ST)'. Properties charged at EUV-SH obtain approximately 30% of the Market Value, whereas properties charged at MV-ST typically obtain 70% of Market Value.
27. The proposed replacement clause is an industry standard MIP which has been approved by the valuers (JLL and Savills), funders across the AH sector and the National Housing Federation.
28. The variation is therefore considered acceptable. The risks have been found to be very low and there are significant benefits of providing additional funding for AH providers which will help provide further AH within the city.

#### S106 Revision to Public Open Space Maintenance

29. It is proposed to revise the responsibility for the public open space from a management company to allow for the AH provider, in this instance Livewest, to provide maintenance of these areas.
30. This is an acceptable revision, allowing the AH provider to maintain both housing and surrounding spaces rather than transferring it to a separate management company and requiring service charge contributions.



31. To ensure appropriate maintenance of these areas there is an existing pre-occupation condition on the associated reserved matters approval 24/0317/RES, condition 6, requiring submission of a Landscape Ecological Management Plan which includes long-term objectives, management responsibilities and maintenance schedules.

## **17.0 Conclusion**

The increase in AH dwellings will provide a much needed housing type for the city. Whilst the mix of AH tenures will alter, Core Strategy policy CP7 allows for this and the overall levels of social rented and intermediate housing will both increase above the existing approved levels. The S106 will be amended accordingly, with the specific wording change to a minimum of 35% due to grant funding requirements. The 100% AH level will be secured by approved plans and any deviation would need a further planning application.

Careful consideration of Community Infrastructure Levy (CIL) requirements have been undertaken and the loss of CIL would not be a material planning consideration in this instance as there are no infrastructure projects funded by CIL which are necessary to make the scheme acceptable.

The removal of the First Homes requirement from the S106 brings the legal agreement in accordance with the latest update to the NPPF, and the changes to the Mortgagee in Possession clause allow for greater funding opportunities for AH.

The removal of the management company requirements and service charges for the public open space is also acceptable, with the site being operated by a single AH provider that will provide this service.

It is therefore considered that the proposed increase in AH provision from 35% to 100% is acceptable and the associated S106 modifications are appropriate and relevant to this change in AH level.

## **18.0 Recommendation**

a) DELEGATE TO THE HEAD OF CITY DEVELOPMENT TO GRANT SUBJECT TO THE CONDITIONS BELOW AND THE COMPLETION OF A DEED OF VARIATION TO THE S106 AGREEMENT RELATING TO PLANNING PERMISSIONS 23/0584/OUT TO INCREASE AFFORDABLE HOUSING LEVELS, REMOVE REFERENCE TO FIRST HOMES, ADJUST MORTGAGEE IN POSSESSION CLAUSE AND MODIFY PUBLIC OPEN SPACE MAINTENANCE RESPONSIBILITIES AS SET OUT IN THIS REPORT.

### Conditions

#### **1) Condition: Approved Plans**

The development hereby permitted shall be carried out in accordance with the following approved plans:

- BLAK/2023-110 Rev P6 - Location Plan
- BLAK/2023 102 Rev P18 - Planning Layout
- BLAK/2023 112 Rev P1- Tenure Layout
- BLAK/2023 104 Rev P5 - Storey Heights Layout
- BLAK/2023 105 Rev P5 - Parking Allocation Layout
- BLAK/2023 106 Rev P5 - EV Charging Layout
- BLAK/2023 107 Rev P5 - Material Plan
- BLAK/2023 108 Rev P5 - Refuse Collection Layout
- BLAK/2023 109 Rev P4 - Proposed Street Scenes
- RNSD-501 Rev P3 - Alnmouth Housetype - HA
- RNSD-502 Rev P2 - Danbury Housetype
- RNSD-503 Rev P2 - Danbury FG Housetype - HA
- RNSD-504 Rev P3 - Chiltern FG Housetype - HA
- RNSD-505 Rev P3 - Deepdale FG Housetype
- RNSD-505-1 Rev P3 - Deepdale Housetype
- RNSD-507 Rev P1 - Barnwood Housetype
- RNSD-508 Rev P2 - Barnwood DT Housetype
- RNSD-508-1 Rev P1 - Barnwood DT Housetype
- LARK2-509 Rev P1 - Saunton Housetype - HA
- RNSD-510 Rev P2 - Silverdale FG Housetype
- RNSD-511 Rev P1 - Ashdown Housetype
- RNSD-512 Rev P1 - Ashdown Corner Housetype
- RNSD-513 Rev P1 - Apartment Elevations
- RNSD-514 Rev P1 - Apartment Plans
- RNSD-521 Rev P2 - Wareham Housetype HA Unit
- RNSD-522 Rev P1 Wareham Housetype
- 333100717 BL-LD-200 Rev G - Layout Sheet, Plant Schedule and Landscape Specification
- 333100717 BL-LD-201 Rev G - On-Plot Landscape Proposals Sheet 1
- 333100717 BL-LD-202 Rev G - Open Space Landscape Proposals Sheet 2

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

## **2) Condition: Construction Management Plan**

The development shall be undertaken in accordance with the submitted 'Construction Management Plan Rev 2' at all times.

Reason: In the interest of public safety and to prevent damage to the highway.

## **3) Condition: Materials**

The materials for the development hereby approved shall be in accordance with those shown on approved drawing 'BLAK/2023 107 Rev 4 – Materials Layout' and the submitted documents 'External Materials Schedule Rev A', 'Fassa Bortolo – Render Colours Brochure', 'Materials Samples', 'PH Brick Brochure' and 'PH Tile Brochure',

Reason: To ensure suitable materials are proposed in the interest of good design and visual amenity.

#### **4) Condition: Highway Delivery 1**

##### *Pre-occupation*

The occupation of any dwelling in an agreed phase of the development shall not take place until the following works have been carried out to the written satisfaction of the Local Planning Authority:

- a) The spine road and cul-de-sac carriageway including the vehicle turning head within that phase shall have been laid out, kerbed, drained and constructed up to and including base course level, the ironwork set to base course level and the sewers, manholes and service crossings completed;
- b) The spine road and cul-de-sac footways and footpaths which provide that dwelling with direct pedestrian routes to an existing highway maintainable at public expense have been constructed up to and including base course level;
- c) The cul-de-sac visibility splays have been laid out to their final level;
- d) The street lighting for the spine road and cul-de-sac and footpaths has been erected and is operational;
- e) The car parking and any other vehicular access facility required for the dwelling by this permission has/have been completed;
- f) The verge and service margin and vehicle crossing on the road frontage of the dwelling have been completed with the highway boundary properly defined;
- g) The street nameplates for the spine road and cul-de-sac have been provided and erected.

Reason: To ensure that adequate access and associated facilities are available for the traffic attracted to the site.

#### **5) Highway Delivery 2**

##### *Within 12-months of occupation*

Within twelve months of the first occupation of the first dwelling in an agreed phase of the development, all roads, footways, footpaths, drainage, statutory undertakers' mains and apparatus, junction, access, retaining wall and visibility splay works shall be completed to the written satisfaction of the Local Planning Authority.

Reason: To ensure that the access arrangements are completed within a reasonable time in the interests of safety and the amenity of residents

#### **6) Condition: Landscape Ecological Management Plan**

##### *Pre-occupation*

Prior to first occupation of any dwelling hereby approved a Landscape Ecological Management Plan (LEMP), including long term objectives, management responsibilities and maintenance schedules for all landscape areas, other than small privately owned domestic gardens, shall be submitted to and approved in writing by the Local Planning Authority. The LEMP shall be carried out as approved at all times thereafter.

Reason: To ensure biodiversity gain and that satisfactory landscaping works are provided and maintained

#### **7) Condition: Removal of Permitted Development Rights**

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

Part 1, Class A extensions and alterations

Part 1, Classes B and C roof addition or alteration

Part 1, Class E buildings incidental to the enjoyment of the dwelling house

Part 1 Class F hard surfaces

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

#### **8) Condition: Visibility Splay**

The site access and visibility splays shall be constructed, laid out and maintained for that purpose in accordance with approved drawing PL-GA-101 Revision A where the visibility splays provide inter-visibility between any points on the X and Y axes at a height of 600 mm above the adjacent carriageway level and the distance back from the nearer edge of the carriageway of the public highway (identified as X) shall be 2.4 metres and the visibility distances along the nearer edge of the carriageway of the public highway (identified as Y) shall be 33 metres in both directions.

Reason: To provide a satisfactory access to the site with adequate facilities for short term parking and to provide adequate visibility from and of emerging vehicles.

#### **9) Condition: Lighting Strategy**

The proposed development shall be undertaken in accordance with the submitted lighting strategy, consisting of 28390-LIGH0401 Lighting Impact Assessment (December 2023) and drawings 28390\_02\_100\_02 - S38 Lighting Layout and 28390\_02\_100\_03 Private Lighting Layout. No other external lighting features shall be installed without submission and approval of details in writing by the Local Planning Authority.

Reason: To ensure suitable dark area provision and protection of protected species.

#### **10) Condition: Tree Establishing**

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

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

### **INFORMATIVES**

#### **1) Informative: Negotiated Approval**

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

#### **2) Informative: CIL**

The Local Planning Authority considers that this development will be CIL (Community Infrastructure Levy) liable. Payment will become due following commencement of development. Accordingly your attention is drawn to the need to complete and submit an 'Assumption of Liability' notice to the Local Planning Authority as soon as possible. A copy is available on the Exeter City Council website.

It is also drawn to your attention that where a chargeable development is commenced before the Local Authority has received a valid commencement notice (ie where pre-commencement conditions have not been discharged) the Local Authority may impose a surcharge, and the ability to claim any form of relief from the payment of the Levy will be foregone. You must apply for any relief and receive confirmation from the Council before commencing development. For further information please see [www.exeter.gov.uk/cil](http://www.exeter.gov.uk/cil).

### **3) Outline Conditions**

All conditions imposed on the outline approval 23/0584/OUT are hereby reiterated in as much as they relate to the development and have yet to be discharged in writing by the Local Planning Authority.

Reason: To safeguard the rights of control by the Local Planning Authority in respect of the reserved matters.

b) REFUSE PERMISSION FOR THE REASONS SET OUT BELOW IF THE LEGAL AGREEMENT UNDER SECTION 106 OF THE TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED) IS NOT COMPLETED BY 17 AUGUST 2025 OR SUCH EXTENDED TIME AS AGREED IN WRITING BY THE SERVICE LEAD (CITY DEVELOPMENT)