

**LAND EAST OF CELIA CRESCENT AND NORTH OF SPRUCE
CLOSE, EXETER**

**APPLICATION FOR OUTLINE PLANNING PERMISSION FOR
RESIDENTIAL DEVELOPMENT (UP TO 105 DWELLINGS) AND
ASSOCIATED DEVELOPMENT**

PLANNING STATEMENT

PREPARED ON BEHALF OF

SALTER PROPERTY LTD





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1. Introduction

- 1.1 This Planning Statement is provided in explanation and support of an application for outline planning permission for residential development (up to 105 dwellings) and associated development on approximately 3.8 hectares of west of Celia Crescent and north of Spruce Close, Exeter. The application is made in outline, with matters of detail reserved for subsequent approval, apart from means of access.
- 1.2 The application is accompanied by the plans, drawing and documents set out in Schedule 1.1 below:

Schedule 1.1 Plans, Drawings and Documents

Item	Description
Plans and Drawings	
Drawing Number	Description
Drawings Submitted for Approval	
1863_1000_C	Site Location Plan
04268_A_SK110_P1	Preliminary Road Design_Celia Crescent Access
04268_A_SK111_P0	Preliminary Road Design_Spruce Close Access
Illustrative Drawings	
1863_300_M	Block Plan_Indicative
1863_1100_D	Masterplan_Illustrative
1863_1150_C	Parameter Plan_Land Use_Proposed
1863_1151_C	Parameter Plan_Density_Proposed
1863_1152_C	Parameter Plan_Scale_Proposed
1863_1153_C	Parameter Plan_Access and Movement_Proposed
1863_1154_C	Parameter Plan_Open Space_Proposed
1863_1155_A	Parameter Plan_Landscape Strategy_Proposed



Supporting Documents/Assessments	
Document	Author
Design and Access Statement	Place by Design
Ecological Impact Assessment	EPS Ecology
Transport Assessment	PJA
Archaeological Assessment	Substrata/AC Archaeology
Arboricultural Assessment	Advanced Arboriculture
Geo Environmental Assessment	Southwest Geotechnical
Flood Risk Assessment	AWP
Landscape and Visual Impact Assessment	Redbay Design
Topographical Survey	West Country Land Surveys

2. Site and Surroundings

- 2.1 The site, and its context, are described and analysed in some detail in the Design and Access Statement that accompanies the application. It is located adjacent to existing urban development comprising Beacon Heath, a suburb on the northern periphery of Exeter.
- 2.2 The site extends to approximately 3.8 hectares. It is abutting by existing residential development on two sides (south and west). It slopes from north-west to south-east with an overall levels change across the site of approximately 23 metres.
- 2.3 The site currently comprises two fields of semi-improved grassland, used variously for hay cropping and grazing livestock. The two fields are divided by a mature hedgerow that runs north-east to south-west across the site. Hedgerows and trees demarcate all four boundaries of the site. A watercourse also abuts the eastern site boundary, and continues southwards where it also forms the eastern limit of the existing urban area in this part of the city.
- 2.4 There is an access road to the western boundary of the site to the site from Celia Crescent to the west at its approximate mid-point. The spur from Celia Crescent, which has footway on each side, currently serves a garage court and terminates adjacent to the western boundary. Access to the site in its current agricultural use is from Spruce Close to the south, across an existing area of informal recreation space and between dwellings that front onto Spruce Close.
- 2.5 As is illustrated in the Design and Access Statement, there are local facilities within walking distance of the site, including a local centre, schools and other community facilities. There are also established bus services with stops in close proximity to the site. A Morrison supermarket is located a short distance to the south-west, and beyond that, Polsloe Bridge Railway Station. There is also a Sainsburys supermarket a similar distance to the south-east, and beyond that Pinhoe Railway Station.

3. The Proposed Development

- 3.1 The application proposals are again described and explained in some detail in the Design and Access Statement accompanying the application.
- 3.2 The illustrative masterplan accompanying the application indicates a scheme of up to 105 dwellings on the site. The scale of development has been informed by the site assessment and is based on a developed area of approximately 2.6 hectares, giving an equivalent density of circa 40 dwellings per hectare. This is based on a gradation of densities across the site, with generally lower densities on the upper (northern parts) of the site, increasing towards the southern boundary.
- 3.3 Two points of access are proposed, utilising an upgrading of the existing access from Spruce Close and continuing the existing spur from Celia Crescent that currently stops at the western site boundary. This loop through the site will facilitate direct bus access to the new development and the large cul-de-sac of Pinwood Meadow and Lane, which currently has no bus route in close proximity.
- 3.4 A hierarchy of routes is anticipated, from the primary street connecting the two access points, to mews streets and pedestrian only walking loops.
- 3.5 A hierarchy of open spaces is proposed, from informal play areas distributed through the development to a central green space that will incorporate the mature hedgerow that currently separates the two fields, and which will connect through to the peripheral walking loop around the eastern periphery of the proposed development. Green buffers have been created to the existing trees and hedgerows and a significant green margin is proposed adjacent to the northern site boundary. A community orchard is proposed adjacent to the south-eastern site boundary.

4. Development Plan Framework

Exeter Core Strategy (Adopted: February 2012) (ECS)

Strategic Vision / Objectives

4.1 The 'vision' for Exeter is to embrace its role in the region as an area of growth:

- *by providing houses, jobs and supporting infrastructure through maximising the use of previously-developed land within the city, and through sustainable urban extensions to the east, at Newcourt and Monkerton/Hill Barton, and to the south west at Alphington;*

4.2 To this end, key objectives include:

- Making the fullest contribution possible to the mitigation of, and adaptation to, climate change and the transition to a low carbon economy by, *inter alia*, making the best use of land by maximising the use of previously developed land an encouraging high density development in appropriate locations within the urban extensions;
- Aiming to provide everyone in the community with the opportunity of living in a decent warm home of a suitable type, size and tenure for their needs, supported by the local community facilities they require, by making full and efficient use of previously developed land and developing sustainable urban extensions to the east and south-west in co-operation with adjoining authorities.
- Minimising the need to travel and reducing dependency on the car through, *inter alia*, providing easy access to jobs and community facilities within the urban extensions to the east and south west;
- Meeting local needs for community, cultural, social, retail, education, religious and recreational facilities, particularly within the urban extensions, regeneration areas and in areas of deprivation, in order to improve quality of life and reduce social exclusion and the perception of crime (paragraph 3.8).

Spatial Approach

- 4.3 The aim of the spatial approach is to enable the city to grow without damaging those assets that, to a large extent, generate the opportunities and pressures for growth. Accordingly, proposals for development are identified, based on giving priority to sustainable locations, by, *inter alia*, providing for development in sustainable locations to the east and south west of Exeter, and steering development away from the hills to the north and north west that are strategically important to the landscape setting and character of the city.
- 4.4 Pursuant to the above objectives, **Policy CP1** makes provision for around 60 hectares of employment land, at least 12,000 dwellings and up to 40,000 sqm net of retail floorspace within the city during the plan period to 2026. Around 1,800 of these dwellings are to be brought forward on unidentified sites outside the city centre and away from the strategic sites identified in the ECS.

Housing

- 4.5 **Policy CP4** requires residential development to achieve the highest appropriate density compatible with the protection of heritage assets, local amenities, the character and quality of the local environment and the safety and convenience of the local and trunk road network.
- 4.6 **Policy CP5** requires the supply of housing to meet the needs of all members of the community, including specialist housing, which should be provided as part of mixed use communities, where possible, in accessible locations close to facilities.
- 4.7 **Policy CP7** requires 35% of the total housing provision to be made available as affordable housing on sites capable of providing 3 or more additional dwellings, subject to viability.

Transport

- 4.8 **Policy CP9** identifies comprehensive strategic transport measures to accommodate the additional development proposed for the city and adjoining areas, including new rail halts that will enhance rail travel.

4.9 **Policy CP10** requires new and improved community facilities (including social, health, education, cultural and leisure) to be provided in a timely manner to meet the needs of new development, make a positive contribution towards safeguarding and creating sustainable communities, promoting social inclusion and reducing deprivation. Facilities which serve the city as a whole should be included in the City Centre or, if not feasible, at locations which are readily accessible by all modes of travel, particularly public transport. Facilities which serve neighbourhood needs should, wherever possible, be located within or close to district or local centres or at locations easily accessible to the local community, particularly by foot or bicycle.

Environment / Sustainable Design

4.10 **Policy CP11** (Pollution) requires development to be located so as to minimise and, if necessary, mitigate against environmental impacts.

4.11 **Policy CP12** (Flood Risk) requires all development proposals to mitigate against flood risk and utilise sustainable urban drainage systems, where feasible and practical.

4.12 **Policies CP13** (Decentralised Energy Networks), **CP14** (Renewable and Low Carbon Energy) and **CP15** (Sustainable Construction) set out the Council's target towards a low carbon economy by requiring new development with a non-residential floorspace of 1,000sqm to achieve the following, unless it can be demonstrated that it would not be viable or feasible to do so:

- Connect to any existing, or proposed, decentralised energy network in the locality to bring forward low and zero carbon energy supply and distribution (CP13).
- Use decentralised and renewable or local carbon energy sources to cut predicated CO2 emissions by the equivalent of at least 10% over and above those required to meet the building regulations at the time of buildings regulations approval (CP14).
- Demonstrate how sustainable design and construction methods will be incorporated. All development must be resilient to climate change (particularly summer overheating) and optimise energy and water efficiency through appropriate design, insulation, layout, orientation, landscaping and materials, and by using technologies that reduce carbon

emissions. BREEAM 'Excellent' standards from 2013, non-domestic buildings to be zero carbon from 2019. (CP15).

- 4.13 **Policy CP16** states that the strategic green infrastructure (GI) network is shown on the key diagram, and its purpose to protect and enhance current environmental assets and local identity and to provide a framework for sustainable new development. The character and local distinctiveness of the areas identified in the policy will be protected and proposals for landscape, recreation, biodiversity and educational enhancement brought forward, in accordance with guidance in the Green Infrastructure Strategy, through the Development Management DPD. The identified areas include the hills to the north and north west.
- 4.14 **Policy CP17** requires all proposals for development to exhibit a high standard of sustainable design that is resilient to climate change and complements or enhances Exeter's character, local identity and cultural diversity.

Exeter Local Plan First Review (2011) (ELPFR)

- 4.15 Although the ELPFR is now time-expired, only two of its 'saved' policies have been formally superseded by the adoption of the Core Strategy. For the sake of completeness since it remains part of the Development Plan, a brief review is undertaken of relevant saved policies of the ELPFR. To the extent that the policies duplicate matters that are addressed in the ECS, the policies of the latter, being the most up-to-date, are the ones that should prevail, and therefore to which the greatest attention will be given.

Local Plan Strategy

- 4.16 **Policies AP1** and **AP2** set out the key tests against which new proposals will be judged. These policies promote development at locations where there is good accessibility by sustainable transport modes.

Housing

- 4.17 **Policy H1** identifies criteria against which proposals for housing will be assessed. Priority is afforded to land within the existing urban areas.

Transport

- 4.18 **Policies T1, T2 and T3** promote sustainable modes of transport and require development to be laid out and linked to existing or proposed developments and facilities in ways that will maximise the use of such transport modes.
- 4.19 **Policy T9** permits development only if provision is made for safe and convenient access by people with disabilities.
- 4.20 The parking standards set out in the transport policies are expressed as maxima, and reflect an approach that has been superseded by the NPPF. More up-to-date guidance is found in the Sustainable Transport SPD 2013.

Landscape

- 4.21 **Policy LS1** resists development which would harm the landscape setting of the city and requires proposals to maintain local distinctiveness and character. Based on a landscape appraisal, open land is identified on the Proposals Map which is to be protected from development based on its intrinsic merit and its contribution to the distinctive landscape setting of the City.
- 4.22 The application site, together with the wider area to the north, is subject to the designation to which Policy LS1 applies.

Design

- 4.23 **Policy DG1** requires development to respond to its townscape context and that of the wider City, whilst ensuring that it is at a density which promotes Exeter's urban character and supports urban services.
- 4.24 **Policy DG2** requires development to be laid out and designed to maximise the conservation of energy.



4.25 **Policy DG4** requires residential development to be at a maximum feasible density taking into account site constraints and impact on the local area.

4.26 **Policy DG7** requires the design of development to achieve a safe and secure environment.

Environment

4.27 **Policy EN3** seeks to resist development that would harm air or water quality.

4.28 **Policy EN4** restricts development that would increase the likelihood of flooding or be at risk from flooding.

4.29 **Policy EN5** resists development that would cause nuisance to noise-sensitive development.



5. Relevant Planning History

5.1 The Council's records do not reveal any relevant planning history relating to the application site.



6. Planning Analysis

Principle of Development

- 6.1 ECS Policy CP1 guides development to the most sustainable locations, recognising the contribution to made to growth by the existing urban area. The ECS identifies strategic sites to contribute to the growth requirements, but does not allocate non-strategic sites.
- 6.2 The evidence contained in the supporting documents accompanying the application¹ confirms that the site is in a sustainable location. It is immediately adjacent to existing urban development and will integrate well with it. It is within walking distance of a range of local facilities, including a local centre that incorporates a Co-op foodstore and a pharmacy, a day nursery, a Primary School, a sports centre, a public house, and a range of bus stops giving widespread access to other parts of the city and beyond by public transport. Polsloe Bridge Railway Station is also easily accessible from which there are local services to the city centre, other destinations in east Exeter and beyond, and wider destinations from Exeter Central and St David's Stations.
- 6.3 The site is therefore in a sustainable location in relation to the existing urban area. As such, there is no conflict with ECS Policy CP1.
- 6.4 Whilst the ELPFR is time expired, it remains part of the Development Plan since the Development Delivery DPD has failed to progress beyond draft stage. However, the application proposals are in accordance with the strategy of that plan which seeks to locate development where safe and convenient access b public transport, walking and cycling is available or can be provided. There is no specific policy that confines development to within the existing urban limits.
- 6.5 Although the site is within the landscape setting of the city as defined on the Proposals Map, Policy LS1 of the ELPFR only restricts development which would harm the landscape setting of the city. It therefore does not, as a matter of principle, restrict development within the landscape setting where no harm would be caused.

¹ Design and Access Statement, Figures 4-6; Transport Statement, Figures 2.1-2.4

6.6 For reasons that are set out later in this Statement it is considered that little weight can be afforded to the ELPFR in general, and policy LS1 in particular, given that it is time-expired, not up-to-date in terms of the provisions of the NPPF or the ECS, and in the context of a very serious shortfall in the supply of deliverable housing land. However, the starting point is that there is no *prima facie* in principle conflict of the application proposals with the provisions of the Development Plan.

Housing Land Supply

6.7 There is a compelling and urgent need for additional housing land in the city, which is a material consideration that contributes very significant weight in favour of the application proposals in the overall planning balance.

6.8 The housing requirement of 12,000 dwellings in the period 2006-2026 set out in the adopted Exeter Core Strategy (ECS) was not such as to meet the objectively assessed need identified in the evidence base by which it was informed. Whilst acknowledging that work on the regional strategy had ceased, and there was little prospect of it becoming part of the development plan, which reduced the weight that it could be given, the Core Strategy Examination Inspector (CSEI) held that regard should be had to the evidence base by which it was underpinned². It is germane that, having regard to the evidence base, the Secretary of State's Proposed Changes to the Draft Regional Spatial Strategy included increasing the housing requirement for Exeter from 12,000 to 15,000 dwellings, in part to secure a better alignment between job creation and housing in order to reduce the need to travel³. It also took account of the Exeter and Torbay Strategic Housing Market Assessment, which indicated a very high overall need for housing. The CSEI adduced as follows:

... Exeter's plan is not in conformity with the latest figure in the emerging RS of 15,000 new dwellings.⁴

The Council contends that this level of growth cannot be achieved within the City. Its boundaries are tightly drawn, and studies support its view that further expansion is constrained by topography, flood plains and other landscape/environmental factors.⁵

² Report on the Examination of Exeter Core Strategy Development Plan Document, November 2011, para. 12

³ Ibid, para. 14

⁴ Ibid, para. 14

⁵ Ibid, para. 15

The Council has said it is committed to meeting as much of the sub-regional housing need as can reasonably be accommodated within the existing area. Policy CP3 refers to development of over 12,000 dwellings indicating a willingness to achieve a higher number. The plan makes no allowance for windfalls which is the correct approach, but windfalls especially long term could augment the housing numbers and bring them closer to those in the Draft RS. I conclude that, though the plan is not promoting a target of 15,000 dwellings, it supports the underlying principle of maximising housing provision within the City's boundaries. Changes to Policy CP1 and CP3, so that they seek at least 12,000 new dwellings, would reinforce the intended approach and help align the plan more closely with the draft RS.⁶

6.9 The adopted ECS therefore does not plan to meet the objectively assessed housing need identified in the evidence base by which was underpinned. However, it was held to be sound by the CSEI on the basis that it would seek to exceed the identified minimum housing requirement within the plan area, in particular through the release of windfall sites to augment housing numbers and bring them closer to the objectively assessed need. adopted housing requirement in the Core Strategy (12,000 dwellings) did not equate to the objectively assessed need (15,000 dwellings) then identified in the emerging Regional Strategy, which the Council argued could not be achieved within the city⁷. However, the Inspector found it to be sound on the basis that the Council had undertaken to seek to exceed the minimum requirement, in particular through the release of windfall sites to augment housing numbers and bring them closer to the objectively assessed need.

6.10 Moreover, from the date of adoption of the ECS the Council has been unable to demonstrate the requisite five year supply of deliverable housing land. The ECS Examination Inspector held as follows:

... The 2010 SHLAA concluded that the deliverable housing land supply, measured against the emerging core strategy target, had reduced. At the June hearing sessions, it was conceded that it was equivalent to only 2 years and 8 months. In view of the shortfall against PPS3 expectations, the Council reviewed the land supply situation in an adjournment to the hearings in July 2011. It was concluded that there was then 4 years and 7 months supply. These figures were not reviewed by an independent SHLAA Panel but were based partly on

⁶ Ibid, para. 16

⁷ Report on the Examination of Exeter Core Strategy Development Plan Document, November 2011, paras. 14-16

recent discussions with landowners or their agents to ascertain when sites would come forward.⁸

*Although this would not equate to 5 years, or meet a more stringent target for deliverable land supply as suggested in the draft NPPF, 4 years 7 months represents a significant improvement over the 2010 situation. It is significantly different from the 2010 SHLAA figure and has not been examined by the SHLAA Panel. However, especially in the current economic climate, significant changes in estimates of deliverable sites over short time periods are unsurprising. The economic downturn, with restrictions on available finance, has undoubtedly affected the numbers of sites being brought forward for housing development. Also, Exeter's plan is heavily dependent on new housing development on the proposed urban extensions which, because of their scale and complexity, will take time to deliver. The precise start dates could be difficult to estimate.*⁹

*As already stated, the plan makes no allowance for windfall sites. However, an appraisal of housing completions over the last 10 years showed that 220 dwellings per year were on such sites. Even in the last 2 years, when SHLAAs were carried out, windfall sites yielded more than 200 dwellings each year. If the trend continues, and there is no evidence to suggest otherwise, windfalls would more than make up the shortfall of 250 dwellings in the 5 year supply.*¹⁰

6.11 Notwithstanding its deficiencies in terms of its provisions for housing, the CSEI allowed the plan to proceed having regard to a Development Management Policy Statement committing the Council to “a number of actions to be proactive and boost the 5 year housing land supply”¹¹. In particular, she required that:

*... the plan should commit to an early review if a 5 year housing land supply cannot be demonstrated within the next two years at the most. Chapter 1 already refers to the possibility of an early revision of the plan. Paragraph 1.8 should refer to the possibility of an early review if a five year housing land supply is not established soon, and I recommend accordingly.*¹²

⁸ Ibid, para. 17

⁹ Ibid, para. 18

¹⁰ Ibid, para. 19

¹¹ Ibid, para. 22

¹² Ibid, para. 23

*... I do not under-estimate the seriousness of the shortfall in deliverable housing sites at the beginning of the life of this plan. Continuation of the pattern could undermine the authority of the Core Strategy. ...*¹³

6.12 It is also germane that, as is acknowledged in the ECS:

*Other than the urban extensions to the east and south west (for which strategic allocations are made in Section 12), the Core Strategy does not allocate sites. Site allocations will be brought forward through the Site Allocations DPD.*¹⁴

6.13 The Site Allocations DPD¹⁵ has not progressed beyond Publication Version, on which consultation was undertaken in August 2015. It has not been submitted for examination, and therefore no reliance can be placed on its provisions. Therefore, the vehicle through which any plan-led response to the shortfall in housing land supply could be achieved, has not progressed. The only resolution to the shortfall overall, and in the five year housing land supply, as adduced by the CSEI, therefore remains planning applications on windfall sites.

6.14 The evidence arising from a number of recent Planning Appeals is that the Council has failed to resolve its housing land supply deficit. In connection with an Appeal decided in April 2016 relating to land north of Exeter Road, Topsham, the Inspector held there to be ‘a serious shortfall’ in the five year housing land supply¹⁶. In a subsequent Appeal decided in February 2018 relating to land to the north of WESC, Topsham Road, Exeter, it was agreed between the parties that the Council was only able to demonstrate a deliverable housing land supply of about 2.5 years¹⁷.

6.15 The most recent Appeal decision where housing land supply was considered relates to a site west of Clyst Road, Topsham¹⁸, and which confirms that the housing land supply position had deteriorated further in the interim period since February 2018. As is confirmed by the Inspector in that decision, the Council accepted through the Statement of Common Ground that the supply of deliverable

¹³ Ibid, para. 25

¹⁴ ECS, para. 6.6

¹⁵ Now re-badged as the Development Delivery DPD

¹⁶ Appeal Ref: APP/Y1110/W/15/3005030, paras. 5 and 14

¹⁷ Appeal Ref: APP/Y1110/W/17/3179387, para. 3

¹⁸ Appeal Ref: APP/Y1110/W/18/3202635

housing land was just over two years and one month¹⁹. Moreover, it also confirmed that the lack of a five year housing land supply dated back to at least 2010.

- 6.16 The 5 Year Housing Supply Statement which formed the basis of that common ground²⁰ confirms that there had been a considerable backlog in housing delivery during the plan period to that date (August 2018) of 1,774 dwellings, equating to almost 3 years equivalent of housing that had not been provided up to that point.
- 6.17 For the purposes of a Hearing in October 2019 relating to conjoined Appeals against the refusals of two applications for planning permission for student accommodation on land at Walnut Gardens, St David's Hill, Exeter, it was agreed as common ground that the housing land supply situation had not significantly improved since the August 2018 assessment²¹
- 6.18 The Council has therefore both failed to resolve the shortfall in the supply of the deliverable housing land since the adoption of the ECS, and failed to conduct the early review of the ECS to which it was committed by the consequential failure to resolve the housing land supply shortfall within two years from the date of adoption. It also confirmed that the forward land supply was woefully deficient, giving little prospect of alleviating the under-supply, and a significant risk of the undersupply worsening.
- 6.19 The situation can therefore be summarised as follows:
- At the time of adoption, the ECS failed to plan to meet the objectively assessed housing needs, or to demonstrate a five year deliverable supply of housing land. It therefore set itself an objective to exceed the minimum requirement, and to resolve the five year supply of deliverable housing land within two years, failing which an early review of the plan would be required.
 - The Council has failed to resolve the five year supply of housing land within the maximum two year period foreshadowed in the ECS. Moreover, the evidence of recent Appeals is that the five year supply of deliverable housing land has not only failed to be resolved, but has worsened since the adoption of the ECS, at nearly two thirds of the way through the plan period.

¹⁹ Ibid, para. 42

²⁰ 5 Year Housing Supply Statement for Exeter City Council 1 April 2018 to 31 March 2023 (ECC, August 2018)

²¹ Appeal Refs: APP/Y1110/W/19/3227714 and 3238758, Agreed Statements of Common Ground, paras 6.6

- The Council's most up-to-date position as regards housing land supply formed the basis of common ground for the purposes of the Appeal in December 2018 (decided 14th January 2019) relating to Land west of Clyst Road, Topsham. This confirms that the deliverable housing land supply has deteriorated further, and the Council confirmed that it has been unable to demonstrate a five year supply since at least 2010. This is a very serious failing, the evidence indicating that nearly 3 years equivalent of homes assessed against the ECS requirement that are needed now to meet housing needs, have not been built.
- Notwithstanding the requirements of the NPPF and PPG that, to be effective, plans need to be kept up-to-date and that most plans are likely to require updating in whole or in part at least every 5 years, the ECS has not been updated. Moreover, in this instance, having regard to the basis on which the CSEI found the plan to be sound and required a review no later than two years following its adoption if the Council remained unable to demonstrate a five year supply of deliverable housing land, the outdatedness of its policies is unequivocal.
- Given that the Development Delivery DPD has failed to move forward, the plan-led vehicle for responding to the shortfall in the housing land supply has failed to contribute to its alleviation.
- In the light of the above circumstances, windfall housing sites have an enhanced role in contributing to housing land supply, and to a far greater extent than contemplated in the evidence base.

6.20 The reassurances that the Council gave to the CSEI, that windfalls could make up for the shortfalls in the five year supply, and also exceed the minimum housing requirement and bring it closer to the objectively assessed need, and on the basis of which she allowed the plan to proceed, have not materialised. On the contrary, the supply of deliverable housing land has spiraled downwards and is now less than half of what is required. At the same time, the reliance on windfalls to achieve the five year supply has increased given that the Development Delivery DPD has failed to come forward.

6.21 Urgent actions are now needed to address the very serious shortfall in the supply of deliverable housing land. The nature of the actions that are necessary has been foreshadowed in the recent Appeal decision relating to land west of Clyst Road, Topsham, where the Inspector held the benefits of housing delivery outweighed the fact that the site was outside the urban limits of Exeter in its

landscape setting and, in that case, also in a strategic gap. This is clear confirmation that, in order to deliver the housing that is urgently needed, windfall sites must now be permitted beyond the tightly drawn city boundaries, and that even the reduced requirement in the ECS cannot otherwise be met. This was confirmed in the recent Appeal decision relating to land west of Clyst Road in which the Inspector noted, and held to be important, the Council's concession that "... to meet the CS housing requirement and to achieve a five year housing land supply, permissions would need to be granted on land that is subject to policies LS1 and CP16"²². Further reference will be made to the Inspector's findings in this respect in the next section.

- 6.22 Given shortfall of sites to deliver both the overall CS requirement and achieve the five year housing land supply, the substantial reliance on windfall sites to make good the deficits, and the now accepted need to bring forward sites outside the city boundaries and in its landscape setting, there is a strong presumption in favour of the application proposals having regard to the housing benefits that they will deliver. Accordingly, the weight of contrary material considerations that is necessary to set aside the benefits and justify refusal of planning permission, must be very substantial.

Landscape Impacts

- 6.23 The starting point for the consideration of landscape impacts is that very little weight can now be afforded to the landscape setting designations, and Policy LS1 of the ELPFR that seeks to protect them.
- 6.24 The ELPFR is long time-expired. Moreover, its provisions relate to development needs that have been superseded by the ECS. The development requirements of the latter have only been partly identified since the Development Delivery DPD that is intended to allocate non-strategic sites, has not progressed.
- 6.25 Given that the Development Delivery DPD has not progressed, the landscape setting designations that surround the city have not been comprehensively reviewed in the context of the need to accommodate the scale of development foreshadowed in the ECS. It is evident from the ECS, that they are incompatible with delivering the scale of development that is necessary in the period to 2026. This is reflected in the fact that the strategic allocation in the ECS at Monkerton and Hill

²² Appeal Ref: APP/Y1110/W/18/3202635, para. 43

Barton is on land that is designated as landscape setting, and therefore to which Policy LS1 applies, in the ELPFR. Moreover, the recent Appeal decision relating to land west of Clyst Road has confirmed that, notwithstanding the benefit of the doubt given at the time of the ECS Examination, it is now clear that neither the residual requirement to be met through windfall sites, nor the five year supply of deliverable housing land, can be met without utilising land outside the city's boundaries in the landscape setting designations.

- 6.26 Having regard to the need to aim at a higher level of residential development than is foreshadowed in the minimum requirement set out in the ECS, the backlog in delivery during the plan period to date, and the evidence of a very serious shortfall in the five year deliverable supply, little weight can now be given to any restraint that was previously exercised in accordance with Policy LS1.
- 6.27 It is also germane that the ELPFR pre-dates, and therefore has not been prepared in the context of, the NPPF. The introduction of the NPPF heralded a material change in the policy approach to countryside protection for its own sake, and sought to discontinue local designations of such nature. The Framework does not provide any locus for local landscape or restraint designations. Policy LS1 therefore has no locus in the NPPF, and therefore can be afforded little, if any, weight in the decision.
- 6.28 For the foregoing reasons, little, if any, weight can now be afforded to the restraint designation on the ELPFR Proposals Map that affects the site.
- 6.29 The recent Appeal decision relating to Land west of Clyst Road, Topsham endorses the position outlined above. In relation to Policy LS1, the Inspector held as follows:

*LP Policy LS1 does not permit development that would harm the landscape setting of the city. The appeal site lies within an area to which policy LS1 applies. It is common ground that the scheme would not satisfy the specific requirements of policy LS1 and, as such, it would conflict with that policy. However, it is also common ground that **the policy is out of date in light of the National Planning Policy Framework (the Framework), as well as being based on outdated information and superseded national policy.** I agree with that assessment and, as such, I afford this policy conflict limited weight²³ ...*

²³ Ibid, para. 7, emphasis added

Importantly, the Council has conceded in the present appeal that to meet the CS housing requirement and to achieve a five year housing land supply, permissions would need to be granted on land that is subject to policies LS1 and CP16. I have no reason to doubt that assessment. It was further conceded that such land identified in the EFS as being of 'medium' landscape sensitivity, including the appeal site, must come into consideration for further housing and that, as such, some adverse impacts on such land would be unavoidable. Again, I have no reason to take a different view²⁴. ...

- 6.30 The starting point for the consideration of this application is therefore that Policy LS1 of the ELPFR can now be afforded little, if any, weight in the decision. Moreover, the Council accepts that land outside the city boundary that is subject to the outdated Policy LS1 must now be considered for housing development, including land that is acknowledged as having some landscape sensitivity.
- 6.31 The site is not within an Area of Outstanding Natural Beauty, or any other designated area that is acknowledged in the NPPF. It therefore not subject to policies that protect assets of particular importance to which paragraph 11(d)(i) of the NPPF refers, and which can supersede the tilted balance in circumstances, such as this, where a five year supply of deliverable housing land cannot be demonstrated.
- 6.32 Whether the landscape is 'valued' and therefore subject to the policy protection set out in the Framework²⁵ is a matter of judgement in the circumstances of the case. However, as has been established in Appeals decisions elsewhere, in the absence of any formal guidance on the point it is necessary to show some demonstrable physical attribute rather than just popularity²⁶.
- 6.33 The LVIA that accompanies the application undertakes a much more detailed and finer grained assessment than the broad brush approach and findings of the Exeter Fringes Study. This finer grained analysis demonstrates how the site is influenced by the existing urban development by which it is abutted to the west and south. It will 'square off' the existing built envelope in this part of Exeter, neither extending it further northwards onto the higher slopes, nor eastwards into open countryside beyond the eastern limits of development to the south. Moreover, the watercourse that provides a natural limit to existing development to the south, does likewise for the current application site. This is clearly evident from Figure 1 (Site Location and Context) of the LVIA. It will be

²⁴ Ibid, para. 43

²⁵ NPPF, para. 170(a)

²⁶ See in particular Appeal Ref: APP/C1625/A/13/2207324

contained by existing boundary trees and hedgerows and a watercourse, and will therefore constitute a natural rounding off of development in this part of the northern fringe of the city.

- 6.34 Overall, the detailed assessment set out in the LVIA confirms the site to be of 'medium sensitivity' in landscape terms.
- 6.35 As is set out in the LVIA, the conceptual proposals have been informed by the sensitivities of the site, and embody a design approach that is intended to minimise and mitigate any potential adverse impacts. The highest and most sensitive parts of the site are retained free from development, and a gradation of densities is proposed across the site increasing from north to south as it descends to the lower slopes.
- 6.36 Whilst the proposed development will inevitably occasion change in the visual appearance and character of the site from an agricultural field to urban development, the change will be localised and contained within the northern and eastern limits of existing urban development to the west and east respectively. The proposed development will not extend the urban fringe of Exeter onto more elevated land than is currently the case, and it will be contained within an existing framework of boundary trees and hedges. As is adjudged within the LVIA in relation to the landscape effects of the proposed development:

the proposals would be experienced as residential development set within wooded slopes, occupying the already settled mid slopes in this location. ... The proposals would appear as residential development amongst trees on the slope presenting a transition from the settlement into its landscape setting rather than there being a hard edge between one and the other. (pp.34-35)

*With this in mind the proposals are likely to be a recognisable new feature but would be less prominent in its own right, when experienced in this context on the edge of suburban development and the landscape setting. The potential impacts resulting from the proposals can be mitigated through the approach to the layout and the retention of boundary vegetation so that the scheme as a whole will integrate into its surrounding context and continues to contribute to the well-wooded slopes forming the setting of Exeter. This would result in a **small-medium scale, permanent effect** to an intermediate area (up to 3kn), producing a*

*Low-Medium magnitude of change. When this is compared to the **Medium Sensitivity** the effect on the character of the area and the landscape setting of Exeter is considered to be **Slight-Moderate Adverse**.*

- 6.37 In terms of visual impacts, they are assessed to range from **Moderate Adverse** in the immediate vicinity of the site, to **Minimal Adverse** on the outer edge of the city. However, as is evident from the visual assessment, not least in views from the north looking south across the site from the north²⁷ and towards the site from the south²⁸, urban development rising up the middle slopes but sitting below the wooded skyline is characteristic of Exeter.
- 6.38 As set out above, the Council has accepted through the Appeal relating to land west of Clyst Road, Topsham that, in order to meet its housing requirements, it will be necessary to consider land outside the existing city limits in areas of medium landscape sensitivity. The current application site is therefore an appropriate opportunity for consideration, and given that it will effectively 'round off' the existing urban edge and form in this part of Exeter without encroaching onto higher land or further out into open countryside than existing development, it is particularly suitable and more appropriate than many alternatives.
- 6.39 The landscape setting of Exeter is defined diagrammatically on the ECS Key Diagram, and covers extensive areas. Since the Development Management DPD has not progressed, its boundaries have not been reviewed and refined in the context of meeting the housing needs identified in the ECS. Moreover, it does not act as a blanket restraint on development, and for reasons adduced earlier, such local restraint designations are no longer admissible in the context of the NPPF. The proposed development is simply a rounding off of the existing urban form on the edge of Exeter, and will not demonstrably extend development into open countryside or impact on its landscape.
- 6.40 Based on the evidence in the LVIA it cannot reasonably be concluded that the proposed development would be harmful to the objective of ECS Policy CP16 to protect and enhance the hills to the north and west of the city. Considered overall, there will be no harm to the integrity of the landscape setting of the city, defined in this location primarily by the slopes to the north and north-east of the application site. It is germane that the site is less sensitive than the one at Topsham that was allowed on Appeal that was in a strategic gap and therefore much more sensitive to

²⁷ Photo viewpoint 2bi

²⁸ Photo viewpoints 5i and 6i

encroachment from urban development than the much more extensive tract of land comprising the hills to the north and west of the city. Overall, there is not considered to be any conflict with ECS Policy CP16.

- 6.41 Notwithstanding and without prejudice to, the foregoing, to the extent that there is adduced to be some localised harm, to which development on a greenfield site outside existing urban limits may invariably be deemed to give rise given the change in character from rural to urban, it is necessary to weigh it in the balance against the significant benefits of the proposals, and in particular contributing to housing delivery in a context of an acute shortfall in the supply of deliverable housing land. That balancing exercise is undertaken in the next section.
- 6.42 The evidence of the LVIA is that the impact of the proposals in landscape and visual terms is not of overriding significance. Moreover, the assessment does not indicate any demonstrable physical attribute of the site such that it categorises as a 'valued landscape' for the purposes of paragraph 170(a) of the NPPF.

Ecology

- 6.43 The ecological assessment accompanying the application has confirmed that there are no overriding reasons on grounds of biodiversity for refusing planning permission.
- 6.44 The site is not designated for its biodiversity value. Moreover, there will be no impacts of any statutory or non-statutory conservation sites, and legally protected and protected/notable species will not suffer any significant adverse impacts.
- 6.45 The baseline assessment has confirmed the presence of protected species on the site, in particular bats. In addition, the presence of dormice was recorded on land to the north of the application site, with strong hedgerow links between the confirmed location and the site which were deemed to provide 'high quality habitat' for dormice.
- 6.46 With regard to bats, activity is limited to foraging, and there was no evidence of roosts in the boundary trees or the adjacent residential development. The highest levels of activity were associated with the north-eastern site boundary which directly adjoins a line of mature trees/shrubs

either side of a small watercourse, occupies slightly lower ground and is therefore more sheltered, and land beyond comprises a large area of rough grassland/scattered scrub which is suitable for bat foraging. The main part of the site where development is proposed to take place comprises open ground (mown grassland) which does not represent habitat typically used by foraging bats, as was confirmed through the transect surveys.

- 6.47 As is evident from the illustrative masterplan and Design and Access Statement accompanying the application, the vegetation on this boundary will be retained and enhanced, with development offset to maintain a green corridor which will be dark at night. Existing perimeter trees and vegetation around the other site boundaries will also be retained and enhanced, as will be the species rich hedgerow that extends across the site from the north-eastern boundary at its approximate mid-point.
- 6.48 Through retention and enhancement of existing trees and hedgerows, and use of appropriate lighting retaining dark corridors adjacent to the north-west and north-east site boundaries, any potential impacts of the proposed development on bat populations can be satisfactorily mitigated. Such measures will also mitigate any potential adverse impacts on dormice. Moreover, there is potential for enhancement of both bat and dormice populations. Placement of bat boxes in trees and suitable dwellings will encourage new roosts. Similarly, the placement of dormouse boxes in the retained boundary hedgerows will provide opportunities for nesting in locations where the surveys did not find any evidence of such.
- 6.49 The evidence in the ecological assessment confirms that the objectives of Core Strategy Policies CP16 will be met in that the biodiversity value of sites of national, regional and local conservation importance will be protected, and unavoidable impacts compensated for in accordance with their relative status. Subject to the mitigation measures outlined, the biodiversity value of the site will be satisfactorily protected and enhanced.

Transportation and Highways

- 6.50 The evidence in the Transport Statement confirms the sustainability of the location in relation to the Exeter urban area. The neighbouring urban area has good connectivity and accessibility on foot and by bicycle to a range of everyday social and community facilities, and into which the site can connect. There are also established public transport services serving the neighbouring residential

communities, and the scheme has been designed with two access points to facilitate those established services to divert through the site. The site is within reasonable and comfortable walking distance of a range of community facilities. The close proximity of Polsloe Bridge Station will also facilitate and encourage trips to the city centre and other destinations beyond the local area to be taken by non-car modes.

- 6.51 The site is therefore a sustainable location for the development proposed in transportation terms. It is sustainable at a macro-level in terms of the broad locational considerations set out in the strategic provisions of the ECS. It is also sustainable at the local level having regard to the location of the site relative to green infrastructure, local facilities, and sustainable transport routes between them.
- 6.52 The analysis of accident records confirms that there are no road safety issues on the existing highway network within the vicinity of the site. Moreover, the proposed access arrangements are satisfactory subject to the realignment of Spruce Close with the proposed access becoming the priority route, and the implementation of a parking management scheme to facilitate accessibility of the site by buses.
- 6.53 With regard to the traffic impacts of the proposals, the assessment indicates a problem with existing over-capacity at a single junction (Beacon Heath / Pinwood Lane) owing to the effects of general growth and committed development. However, the additional impact of the development proposed will be negligible during both peak hours. Moreover, with the real opportunities for mode shift afforded by the sustainable location of the site, the impacts may be less than predicted, and any peak hour queuing that does occur may further encourage mode shift.
- 6.54 The assessment indicates that the consequences of the proposed development in transportation terms would be neither an unacceptable impact on highway safety, nor residual cumulative impacts on the road network that would be severe. The circumstances justifying refusal of development on highway grounds are therefore not present.

7. The Planning Balance

- 7.1 For the reasons set out in the foregoing it is concluded that a grant of planning permission in this instance would be in accordance with the development plan taken as a whole. As such, in accordance with planning law and policy, planning permission should be granted.
- 7.2 Notwithstanding, and without prejudice to, the foregoing, given that the Council cannot currently demonstrate a five year supply of deliverable housing land, policies which are most important for determining the application are deemed to be out-of-date²⁹. *Ipsa facto*, the tilted balance is engaged, and planning permission should be granted absent the two circumstances set out in the Framework that can supersede that presumption³⁰.
- 7.3 The application of policies that protect areas or assets of particular importance do not provide clear reason for refusing the development proposed. The site is not affected by any designations that are the subject of specific policies in the Framework, and is not in an area of flood risk. Moreover, there is no impact on heritage assets.
- 7.4 In accordance with Section 38(6) of the Act, the starting point remains whether or not granting planning permission would be in accordance with the statutory Development Plan considered as a whole. Under such circumstances, in accordance with planning law and policy, planning permission should be granted unless material considerations indicate otherwise. The overall weight of contrary material considerations must be of such magnitude as to justify setting aside the benefits of the proposed development in the overall planning balance, and the support for them that arises from the provisions of the Development plan.
- 7.5 Even in circumstances of some conflict with the development plan, other material considerations may indicate that planning permission should be granted. The tilted balance in the NPPF, which applies in this instance, is an 'other material consideration', and a powerful one, which might indicate that planning permission should be granted even if to do so would not accord with the Development Plan.
- 7.6 Given that the tilted balance applies, planning permission should only be refused if there are adverse impacts that would significantly and demonstrably outweigh the benefits, when assessed

²⁹ NPPF, para. 11(d)

³⁰ *Ibid*, paras. 11(d)(i) and (ii)

against the policies in the Framework taken as a whole. As is clear from the foregoing, in circumstances where the tilted balance is engaged, the planning balance is determined in relation to the policies in the Framework rather than the Development Plan and/or other local planning guidance.

- 7.7 The weight of the case on the benefits side is very substantial indeed. The contribution to housing delivery in the context of a long-standing, persistent and very substantial shortfall in the supply of deliverable housing land, is a material consideration which carries significant weight. In this context, given that the proposals are in the nature of a medium windfall site at the most sustainable settlement that is suitable for housing, it benefits from the specific support in the Framework for opportunities of such nature³¹.
- 7.8 The site is in a sustainable location for residential development. It is clear from the Design and Access Statement that the scheme design has been robustly informed by its context. Development is avoided on the most elevated and sensitive parts of the site, and the existing landscape framework of boundary trees and hedges retained and enhanced. Given that the proposed development is well contained by existing urban development on two sides, and strong boundary features on the other two, including a watercourse that defines the eastern extent of existing urban development to the south, it will 'round off' the established urban edge of Exeter. Considered overall, there will be no harm to the local objective to protect the landscape setting of the city.
- 7.9 Notwithstanding the foregoing, given that the tilted balance applies, any adverse impacts must arise in relation to the Framework rather than local planning policy documents and guidance. There is nothing in the Framework that indicates any adverse impacts on landscape or other environmental assets that would 'significantly and demonstrably' outweigh the very substantial benefits of the proposals, and the proportionate weight that is properly afforded to them in the overall planning balance. The site does not form part of a 'valued' landscape which the NPPF indicates should be protected and enhanced. Even if it did, any 'value' must derive from the contribution of the site to its wider landscape context, and the harm that would be caused by the loss of a small part of the overall landscape of value, and a part that is construed in the context of urban development on two sides, adjudged accordingly. To the extent that there is some harm to a small part of a wider landscape, and a part that is construed in an enclave of existing urban development that it would 'round off', it is considered to be limited. As such, it does not get close to a level of harm that would

³¹ Ibid, para. 68(c)

outweigh the benefits, let alone 'significantly and demonstrably' do so, which is the requirement of the Framework.

- 7.10 In terms of biodiversity, the proposals will protect existing assets and, through the mitigation proposed, will result in an overall enhancement. As such, the requirements of the Framework are upheld.
- 7.11 The proposals are located such as to provide realistic opportunities to use non-car modes of transport for everyday activities, as well as to access more distant destinations by bus, rail and cycle, and incorporate measures to enhance opportunities through diverting bus routes through the site. Whilst there is evidence of some existing congestion on the highway network, the proposals will not impact unacceptably on highway safety or give rise to residual cumulative impacts on the road network that would be severe. As such, the circumstances identified in the Framework under which development should be prevented or refused on highway grounds, do not arise. Any slight disbenefits of the proposals that weigh on the negative side of the balance are therefore considered to be negated by the sustainability of the location in transportation terms, and the opportunities to access facilities and wider locations by non-car modes. Therefore, in transportation terms, the proposals are considered to be neutral in terms of the overall planning balance.
- 7.12 There are no other adverse impacts when considered in relation to the policies in the Framework taken as a whole that weigh in the overall planning balance against the application proposals. When considered overall, to the extent that there are disbenefits, and in particular any slight harm to the landscape context in which Exeter is situated, then they contribute slight weight on the negative side of the planning balance. Even if they were adduced to contribute moderate weight, then that would be insufficient to displace the significant weight in favour of the proposals that arises from the benefits of the proposals in terms of their contribution to housing land supply and delivery. It would certainly not be sufficient to 'significantly and demonstrably' outweigh the benefits, which is necessary where, as in this case the tilted balance is engaged.
- 7.13 The benefits of the proposals therefore clearly, and unequivocally, outweigh any disbenefits. Indeed, in the circumstances of the current case. The presumption in favour of sustainable development that arises from the tilted balance and the substantial weight in favour of the proposed development, therefore prevails. It is not displaced by any adverse impacts arising from assessment of the proposals against the policies in the Framework as a whole (and in which assessment local policies and guidance are immaterial given that the most important policies for



determining the application are deemed to be out of date), let alone any such impacts that would 'significantly and demonstrably' outweigh the substantial benefits.

- 7.14 Given the weight of benefits in this case, the scale of countervailing disbenefits would need to be of a very substantial magnitude and weight indeed to justify a refusal of planning permission. Those circumstances do not arise in this instance, and the case is not finely balanced.



8. Conclusions

- 8.1 Having regard to all of the foregoing considerations it is concluded that the application proposals are in the nature of sustainable development, and should therefore should be granted planning permission without delay.
- 8.2 The proposed development is in accordance with the ECS in that the site is in a sustainable location adjacent to the existing urban area. Little, if any, weight can now be afforded to the landscape setting designation given that they form part of a Development Plan that is both time-expired and inconsistent with the NPPF. The need to utilise land within the landscape setting designations in order to meet post-2011 strategic housing requirements is reflected in the strategic designations of the ECS, and has been endorsed through recent Appeals decisions. The latter have confirmed that little, if any, weight can now be afforded to the designations.
- 8.3 The critical need to bring forward deliverable housing land, that is well related to the existing urban area, is a benefit that is properly afforded very substantial weight in the decision. It requires disbenefits of proportionately greater weight to set it aside.
- 8.4 There are no overriding objections to the application proposals on grounds of landscape harm. They will simply 'round off' the urban area through utilising an enclave of land that is surrounded on two sides by existing urban development, will not extend the urban area further north or east, and is similarly contained by strong defensible boundaries on the ground (trees/hedgerows/watercourse). To the extent that there is harm, it is minimal and insufficient to rescind the tilted balance. There are no policies in the Framework that protect areas or assets of particular importance that provide clear reason for refusing the development proposed. When assessed against the policies in the Framework taken as a whole, there are no adverse impacts that 'significantly and demonstrably' outweigh the benefits.
- 8.5 The application proposals will deliver, simultaneously, economic, social and environmental benefits, as follows:

- **Economic:** the proposals will contribute to building a strong and competitive economy by delivering housing land of the right type in the right place and at the right time to support urgent and compelling growth requirements.
- **Social:** the proposals will contribute to supporting a strong, vibrant and healthy community, by contributing to the supply of housing, including affordable housing, required to meet the needs of present and future generations in a context of an acute shortage to meet both. They will also contribute positively to achieving a well designed and safe built environment, in a location that has good accessibility to services and open spaces (including the rural surroundings of the city) that will support the future occupiers' health, social and cultural well being. Through extending existing bus services through the site and which will better serve the surrounding area, there will be social benefits in terms of the enhancing accessibility to facilities beyond walking distance.
- **Environmental:** the proposals will contribute to this objective through avoiding designated areas, heritage assets and enhancing the built environment through a well-designed, integrated and connected urban extension. Moreover, through providing energy efficient buildings in a sustainable location that will minimise the need to travel owing to proximity to community services and facilities and sustainable transport nodes, and that avoids areas of flood risk, the proposals will contribute to mitigating climate change. Accompanied by a bespoke scheme of landscaping that is predominantly grazed pastureland, there is potential for an improvement in biodiversity. The enhancement of sustainable transport connections will also contribute positively to reducing the need for car travel, and therefore to reducing CO₂ emissions and improving air quality.

8.6 For the above reasons the proposals are positively aligned in relation to the three objectives of sustainable development set out in the NPPF, and will further them in a mutually supportive way.

8.7 In the light of all of the foregoing considerations, and applying the presumption on favour of sustainable development, planning permission should be granted.

