

Our Ref: TSWC-L-0010-003
Your Ref: FRM/EC/1380/2024

06 June 2024

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RE: Land to the North of Exeter, Stoke Hill, Exeter
Outline Planning Application for up to 85 dwellings (35% affordable), community hub and associated infrastructure (All matters reserved except access)
(ECC Ref: 23/1380/OUT)

We refer to our earlier letter (dated 30 April 2024) responding to your statutory consultee response [REF: FRM/EC/1380/2024] and our subsequent telephone conversation on Friday 24 May 2024.

Thank you for verbally confirming during our conversation that our responses to Observations 1, 2, 3 and 4 have provided sufficient clarification and/or additional information to address these items fully.

You also confirmed that the second part of Observation 5 (referring to the status of the bio-retention wetland area in Catchment 2) has also been addressed.

However, the LLFA require further clarification with regard to the first part of Observation 5, which states:

"The detention basins for Catchment 1 is proposed to discharge into Northbrook. However, it is unclear as present as to whether the applicant have the permission to lay the pipe across a third party land to discharge the water. The applicant shall clarify this." (verbatim)

Since our discussion on 24 May 2024, a Transport Technical Note (TTN) has been prepared by Awcock Ward Partnership (AWP) responding, in part, to comments made by Devon County Council Director of Climate Change and Transport Development Management team (DCC) regarding the deliverability of pedestrian and cycle accessibility to the site which includes the Stoke Hill Footpath/Cycle Connection (identified as Figure 2.1 in the AWP TTN). A copy of this TTN is appended to this letter.

This proposed route is intended to connect from the developed area, adjacent to the SuDS area and down to Stoke Hill and is shown in Figure 2.2 of the AWP TTN.

Paragraph 2.5 states:

"The DCC concern is that the footpath numbered 12 may never be able to be delivered, which they believe would fundamentally hinder the pedestrian and cycle accessibility of the site"

This statement is of particular importance as it correlates with the LLFA's Observation 5 relating to "...the permission to lay the pipe across a third-party land...".

Paragraph 2.8 addresses DCC's comment by stating:

*"The Applicant's legal and consultancy team has investigated the ownership of the land in question in detail as shown in the extract from the land ownership plan (contained in Appendix B[AWP TTN]) in Figure 2.4 below and the **client advisory team are entirely***

satisfied that the proposed footpath cycle connection can be delivered by the Applicant."

Paragraph 2.10 confirms:

"Where the land abutting HMPE is unregistered Section 228 of the Highways Act is typically used to adopt, as HMPE, a footpath over unregistered land which requires the proposal to be advertised. If no registered owner can be found, then the footpath can then be declared as HMPE."

Paragraph 2.11 concludes;

"It is therefore concluded that adequate solutions are available to permit the proposed footpath / cycle connection to be made".

The adoption of this footpath/cycle connection as HMPE enables Section 158 (Power to lay pipes in streets) and/or Section 159 (Power to lay pipes in other land) of the Water Industry Act 1991 which gives the provision for every relevant undertaker, for the purpose of carrying out its functions, the power to:

- a) lay a relevant pipe in, under or over any street and to keep that pipe there [S158]; and/or,
- b) lay a relevant pipe (whether above or below the surface) in any land which is not in, under or over a street and to keep that pipe there [S159].

It has therefore been clearly demonstrated that the adoption of this footpath/cycle connection as HMPE provides sufficient assurance that either South West Water (SWW) as statutory undertaker or an independently appointed NAV has the rights, as defined in the Water Industry Act 1991, to lay a surface water sewer from the site to the outfall into the watercourse along the route indicatively shown on TSWC Drawing 0010.SK001 (appended to this letter).


We trust the above explanation and additional information clarifies the LLFA's outstanding Observation 5.

Upon review of this additional information we would be grateful if the LLFA would advise the Local Planning Authority (Exeter City Council) that they have 'No Objection' to the proposed development subject to appropriately worded conditions.

If you have any questions, or wish to discuss the proposal, please telephone me on 07362 276031 or contact me by email at timwood@tswoodconsulting.co.uk.

We look forward to hearing from you.

Yours sincerely



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