

# Planning Committee Report 20/0321/FUL

## 1.0 Header section for all reports

Application Number: 20/0321/FUL

Applicant name: Heritage Developments (South West) Ltd

Proposal: Demolition of existing buildings: Proposed residential development of 64 no. residential units, including affordable housing, plus open space, landscaping, car parking, cycle spaces, drainage, vehicular access, internal roads, provision of link road and all associated infrastructure and development.

Site address: Land at Broom Park Nurseries and Five Acres, Exeter Road, Topsham.

Registration Date: 04/03/2020

Web Link to application, drawings/plans: <http://publicaccess.exeter.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=Q6ODSLHBGNZ00>

Case Officer: Michael Higgins

Ward Members: Cllrs Leadbetter, Newby and Sparkes

REASON APPLICATION IS GOING TO COMMITTEE: Non-delegated.

## 2.0 Summary of Recommendation:

DELEGATE to GRANT permission subject to completion of a S106 Agreement relating to matters identified and subject to conditions as set out in report, but with secondary recommendation to REFUSE permission in the event the S106 Agreement is not completed within the requisite timeframe for the reason set out below.

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

- Absence of 5 year land supply
- Para 11 of the National Planning Policy Framework (NPPF) sets out that permission should be granted for sustainable development unless specific policies in the NPPF indicate otherwise
- The location is considered to be sustainable and the proposal is acceptable in its design and general visual impact.
- The proposal is not considered to be of any significant harm to neighbouring residential amenity.
- There are no material considerations which it is considered would warrant refusal of this application

## 4.0

### Table of key planning issues

Issue	Conclusion
Principle of development	In context of lack of 5 year housing supply principle considered acceptable notwithstanding landscape setting policy.
Affordable Housing	The provision of affordable forms part of the proposal and will be secured through the S106 Agreement.
Access/Impact on Local Highways and parking provision	Traffic generation, access arrangements and parking provision acceptable. Highway Authority raise no objection subject to suitable conditions and S106 obligations.
Scale, design, impact on character and appearance	Design is considered to be appropriate in context of prevailing character of existing development in the locality, where the same developer has completed similar housing developments
Impact on heritage assets	Based on the results of trial trenching works undertaken it is considered that the impact of the scheme on heritage assets on the site (archaeology) can be appropriately dealt with by a condition.
Impact on Trees and Biodiversity	Limited impact, hedgerows to be retained. Scheme to incorporate appropriate mitigation and enhancement.
Flood Risk and Surface Water Management	DCC as Lead Local Flood Authority have advised no objection subject to a suitable condition being imposed relating to detailed drainage design
Sustainable Construction and Energy Conservation	Appropriate standard to be secured through condition
Economic benefits	Affordable housing, open space, Education contributions, contribution to enhances GP service provision, and jobs in construction related industries
CIL/S106	CIL generated and S106 to secure relevant benefits identified above.

## **5.0 Description of Site**

The application site comprises the buildings and land comprising the former Broom Park Nurseries, the property 'Five Acres' and its curtilage, and also incorporates the vehicular access road serving the golf driving range that sits to the north of the site. The site extends to an area of 2.89 hectares and is bounded by the University sports grounds to the NW, Exeter Road to the SW and existing and proposed residential development to the East. The site is predominantly with a slight rise from south to north and as previously cultivated land contains few vegetation features other than a small number of trees around the complex of buildings on the site and the hedgerows forming the perimeter boundaries.

## **6.0 Description of Development**

The proposal as originally submitted comprised the demolition of all existing buildings on the site and redevelopment to provide 64 no. residential units (including affordable housing) along with associated open space, landscaping, and parking. The development would be served with vehicular access via the existing road off Exeter Road that serves the Golf driving range, and incorporates the extension of this road through the site up to the northern boundary of the site. Through negotiations to secure more acceptable open space provision and distribution the scheme has been revised to 61 dwellings.

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

The following documents have been submitted in support of the application –

- Planning Statement
- Design & Access Statement
- Transport Statement
- Highways Review Statement
- Flood Risk Assessment and Drainage Strategy
- Initial Screening and Dust Risk Assessment and update letter
- Extended Phase 1 Habitat Survey & Ecological Appraisal
- Archaeological Assessment and Geophysical Survey
- Air Quality
- Environmental Noise Impact Assessment
- Geotechnical Investigation and Contamination Assessment Report

## **8.0 Relevant Planning History**

04/1441/FUL - Semi-detached two storey building for use as bed and breakfast accommodation (Class C1). Broom Park Nurseries. Approved 29/09/2004.

92/0889/FUL – Erection of two polythene tunnels. Approved 04/12/1992.

The following application is also relevant as the proposed development uses the access from Exeter Rd that was created as part of the driving range development

–  
16/0081/FUL - Development comprising change of use to Golf Driving Range including erection of an 8 bay + 2 training bay driving range building incorporating reception and tractor store; associated flood lighting, 2m high mesh security fencing and 10m high netting; associated car parking and access. Approved 12/04/2016.

## **9.0 List of Constraints**

Zone of Influence of SPA's  
Landscape Setting

## **10.0 Consultations**

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

**Devon & Somerset Fire & Rescue Service** – Highlight need for Building Regulation requirements in respect of access for fire service vehicles, and provision of fire hydrants to be met. This would be dealt with at Building Regs stage.

**ECC Principle Project Manager (Heritage)** – Comments on the scope of archaeological assessment and findings submitted to date and recommends that a geophysical survey should be undertaken prior to determination of the application to establish whether or not potentially significant remains exist on site which have potential to impact on the proposed layout. Following the submission of a geophysical survey which shows two areas of potential archaeological remains, a revised recommendation was made that appropriate trial trenching should be undertaken prior to determination to determine their potential significance and thereby impact on the proposed layout, together with the most appropriate form of mitigation/preservation going forward. This has subsequently been undertaken and based on the results it is considered that an appropriate condition can address the impact of the scheme in terms of archaeological heritage assets.

**Wales & West Utilities** – No objections but highlight need for developer to discuss details with them prior to commencing work on site given apparatus on site.

**Royal Devon and Exeter NHS Foundation Trust** - submitted a lengthy consultation response setting out the background and justification behind a request for a S106 financial contribution of £82,519 (based on 64 dwellings) towards the cost of providing capacity for the Trust to maintain service delivery during the first year of occupation of each unit in the development.

**NHS Devon Clinical Commissioning Group (CCG)** – Draw attention to chapter 9 of Exeter's adopted Core Strategy 'Meeting Community needs' which refers to the potential for S106 contributions to meet health needs and comment specifically as follows –

“The CCG's concern is that the GP surgeries, namely Topsham Surgery and Glasshouse Medical Centre, in the Topsham area, are already over capacity within their existing footprints therefore it follows that to have a sustainable development in human health terms the whole local healthcare provision will require review. The Surgeries already have 10,933 patients registered between them and this new development will increase the local population by a further 140 to 150 persons.”

Taking this into account and drawing upon the document “Devon Health Contributions Approach: GP Provision document “ drawn up by NHS England and Devon County Council, a request for a S106 financial contribution of £26,838 towards the cost of mitigation of the pressures on the local health care facility is requested.

**Police Designing Out Crime Officer** – No objection. Comments generally as follows and also makes specific advisory comments in relation to boundary treatments, clear distinction between public and private space, lighting and benefits of natural surveillance –

“On the whole the layout will provide overlooking and active frontages to the new internal streets and good surveillance opportunities delivered to public open space. Plots are generally orientated back to back to ensure rear gardens are not exposed. Parking has been allocated effectively with the majority on or close to plot with good surveillance provided. Generally appropriate boundary treatments have been utilised to clearly define space and establish ownership.”

**Environmental Health** – Request further information/analysis in respect of land contamination, and acoustic design statement, light pollution/spill assessment in respect of golf driving range and mitigation strategy, and air quality. Also recommend conditions relating to a CEMP, and dependent on findings of above re ground contamination, noise attenuation, light spill/pollution and air quality mitigation. The relevant further information requested has been provided and is considered acceptable, with further appropriate conditions suggested to covers matters.

**DCC Education (Children's Services)** – Comment as follows –

“Devon County Council has identified that a development up to 58 family type dwellings will generate an additional 14.5 primary pupils and 8.7

secondary pupils which would have a direct impact on the primary and secondary schools in Exeter.

In order to make the development acceptable in planning terms, an education contribution to mitigate its impact will be requested. This is set out below:

When factoring in both approved but unimplemented housing developments as well as outstanding local plan allocations we have forecast that the local primary and secondary schools have not got capacity for the number of pupils likely to be generated by the proposed development. Therefore, Devon County Council will seek contribution towards additional education infrastructure to serve the address of the proposed development.

We have forecast that there is no spare primary capacity to accommodate pupils at the local primary schools and therefore we will request primary education contributions against the 14.5 pupils expected to be generated from this development. The primary contribution sought would be £281,546 (based on the DfE new build rate of £19,417 per pupil), or £4854.24 per dwelling. The contributions will be used towards new primary provision to serve Newcourt and surrounding development.

We have forecast that there is no spare secondary capacity to accommodate pupils at the local secondary schools and therefore we will request secondary education contributions against the 8.7 pupils expected to be generated from this development. The secondary contribution sought would be £206,407 (based on the DfE new build rate of £23,725 per pupil), or £3,558.74 per dwelling. The contributions will be used towards new secondary provision at South West Exeter. This new provision will release capacity at existing secondary schools across the city.

In addition, a contribution towards Early Years provision is needed to ensure delivery of provision for 2, 3 and 4 year olds. This is calculated as £14,500 (based on £250 per dwelling). This will be used to provide early years provision for pupils likely to be generated by the proposed development. These contributions will be used towards new early years provision at Trinity Primary & Nursery School.

All contributions will be subject to indexation using BCIS, it should be noted that education infrastructure contributions are based on March 2019 prices and any indexation applied to contributions requested should be applied from this date.

The amount requested is based on established educational formulae (which related to the number of primary and secondary age children that are likely to be living in this type of accommodation) and is considered that this is an appropriate methodology to ensure that the contribution is fairly and reasonably related in scale to the development proposed which complies with CIL Regulation 122.

In addition to the contribution figures quoted above, the County Council would wish to recover legal costs incurred as a result of the preparation and completion of the Agreement. Legal costs are not expected to exceed £500.00 where the agreement relates solely to the education contribution. However, if the agreement involves other issues or if the matter becomes protracted, the legal costs are likely to be in excess of this sum.”

**Natural England** – Identify need to secure mitigation of potential impact on protected European sites, and refer to standing advice relating to impact on protected species and biodiversity gain.

**DCC (Lead Local Flood Authority)** – Comment as follows -

“At this stage, we object to this planning application because we do not believe that it satisfactorily conforms to Policy CP12 (Flood Risk) of Exeter City Council's Core Strategy (2012) which requires all developments to mitigate against flood risk and utilise sustainable drainage systems, where feasible and practical. The applicant will therefore be required to submit additional information in order to demonstrate that all aspects of the proposed surface water drainage management system have been considered.”

Following submission of further information a revised consultation response has been received with the following recommendation –

“Our objection is withdrawn and we have no in-principle objections to the above planning application at this stage, assuming that the following pre-commencement planning conditions are imposed on any approved permission:

- No development hereby permitted shall commence until the following information has been submitted to and approved in writing by the Local Planning Authority:
  - (a) A detailed drainage design based upon the Flood Risk Assessment and Drainage Strategy (Ref.19030; Rev. A; dated 23rd July 2020).
  - (b) Detailed proposals for the management of surface water and silt runoff from the site during construction of the development hereby permitted.
  - (c) Proposals for the adoption and maintenance of the permanent surface water drainage system.
  - (d) A plan indicating how exceedance flows will be safely managed at the site.

- (e) A detailed assessment of the condition and capacity of any existing surface water drainage system/watercourse/culvert that will be affected by the proposals. The assessment should identify and commit to, any repair and/or improvement works to secure the proper function of the surface water drainage receptor.
  - (f) Evidence there is agreement in principle from SWW/ landowner/DCC Highways to connect into their system
  - (g) An assessment of the potential impacts of groundwater on the surface water drainage system, such as 'floatation'. The assessment should also include the construction of the features.
- No building hereby permitted shall be occupied until the works have been approved and implemented in accordance with the details under (a) - (g) above.

Reason: The above conditions are required to ensure the proposed surface water drainage system will operate effectively and will not cause an increase in flood risk either on the site, adjacent land or downstream in line with SuDS for Devon Guidance (2017) and national policies, including NPPF and PPG. The conditions should be pre-commencement since it is essential that the proposed surface water drainage system is shown to be feasible before works begin to avoid redesign / unnecessary delays during construction when site layout is fixed.

**RSPB** – Comment on the proposals to enhance biodiversity as part of the development highlighting that they don't comply with the advice contained within the Council's adopted Residential Design SPD and that they should include integral bird/bat brick provision secured through an appropriate condition.

**County Head of Planning, Transportation and Environment (Highways)** – Comment as follows and recommend conditions and S106 obligations –

"It is noted the most up to date plan shows 61 dwellings.  
Trip Generation and Impact

The submitted Technical Note (TN) suggests two-way peak hour vehicular trips of 0.49 in the AM Peak (0.39 Outbound/0.10 Inbound) and 0.57 in the PM peak (0.14 Outbound/0.43 Inbound). These trip rates based upon the trips observed at occupied dwellings at Bewick Avenue, the residential development situated immediately to the east. Applying this to the proposed development gives rise to 30 AM peak/35 PM peak vehicle trips. The trip rates used are considered acceptable given the observations of the adjacent site.

The development access serves the driving range and is also taken into consideration. It is felt that the traffic generation of the golf club whilst having an impact, it is unlikely to have a significant impact during the usual network peak periods. It is noted the trips from the driving range are already present and does not form part of this application.



The TN makes reference that the majority of the trips are to be Exeter Bound and therefore lead to Countess Wear Roundabout junction in the AM peak. Whilst this is of some concern, 30 trips in an hour does not represent a significant impact in terms of severe impact in terms of capacity for this standalone application (the golf driving range has consent).

Nevertheless, it is worth looking at this application on its own merit – the site is located within an area where foot and cycle are a realistic choice for a wide range of journeys. The site has access to public transport services on Exeter Road and is adjacent to a strategic cycle route (NCN2) and therefore, from a transport perspective, this application has to maximise existing infrastructure to discourage the use of the private vehicle.

### Access

Primary pedestrian, cyclist, and vehicular access will be via the exiting access that serves the driving range; this was determined under ECC Planning Reference 16/0081/FUL.

### *Exeter Road*

The additional traffic onto Exeter Road arising from the application does not require a right turn lane and a priority junction is acceptable. However, DCC have discussed with the applicant the accident record of Exeter Road in the vicinity of the development. Once leaving the 20mph limit of Topsham, there is a noticeable increase in speeds on Exeter Road; this immediate section of road towards the M5 bridge is straight in nature, promoting speeds. With changing character of land to the north of Exeter Road as a result from this development, appropriate traffic management/calming measures on Exeter Road should be provided to reduce vehicle speeds and improve safety for the higher numbers of pedestrians and cyclists that occur in vicinity of development (existing and proposed).

As such the application encompasses 3 raised tables on Exeter Road;

- one at the site access (an amendment to the existing site access),
- one at the site access that serves The Chasse (Exeter Road access point),
- and Retreat Drive.

These are shown on Drawing Number 205368-A-02 Rev C. The raised table at the access point to the development still gives priority to pedestrians and cyclists on the NCN 2 and all 3 access points are a vast improvement to existing access arrangements on Exeter Road. The principle of the revised access points have been discussed with the Road Safety team and a Road Safety Audit Stage 1 (RSA1) has been undertaken.

Discussions with the applicant with the aid of a RSA1 has led to the change in positioning of the existing bus stop which is located immediately opposite the site access point. The relocated bus stop is positioned just south of the primary access point where the applicant provides a crossing on the raised table and a 2m footpath to the proposed bus shelter area. These changes are acceptable in principle and have been discussed with Stagecoach.

These raised tables will require a TRO – in this case will a number of schemes being delivered (together with a Co car space mentioned later), it is recommended that £10k is required.

### *Vehicular Access*

As highlighted earlier the primary access point is via Exeter Road. From this access, 54 units are accessed to the west of the road that leads to the driving range. This is acceptable in principle as the junction has been raised giving priority to pedestrians and cyclists. This philosophy is continued at the driving range access is also raised.

Within the parcel of 54 units, to the south, there is a footway up to plot 52, however, there is not a continuous footpath up to the shared surface and therefore a condition is recommended. To the north there are footways until the raised table at plots 32/46/47/48/16 and from that point onwards a shared surface is promoted. This is acceptable in principle with dropped kerb access points serving driveways. The applicant has introduced speed calming measures by the way of tight radii within the development parcel reducing the speeds, something that is promoted by Manual for Streets. Tracking diagrams have been conducted to ensure that refuse vehicles can still manoeuvre around the site layout.

It is noted that forward visibility is compromised at plot 16 and 32 as shown on Drawing number *BRM-010-LANDSCAPE Rev 5.1* – any vegetation should be kept below 600mm (as shown on the proposed plans). To the east of the spine road, dropped kerbs serve plots 55 – 61; this is also acceptable in principle.

The rest of the vehicular layout is broadly acceptable for the residential development parcel and has been through a number of iterations with the applicant. There are however a few elements of the design which are overly highway focused for residential streets. Options to provide a lower speed environment that better encompasses the Manual for Streets philosophies should be refined through the Section 38 process.

### *Pedestrian/Cycle Access*

The applicant has included a number of pedestrian/cycle links within the site boundary. The “spine road” from Exeter Road has been improved; this shows a 3.5m shared use path on the western side (with side road priority) and a 2m

footway on the eastern side. During pre-application discussions and during the consultation process, the applicant was informed that a 3.0m effective width shared use path should be delivered – this has been achieved. It is noticed that adjacent to plot 50 the path does narrow down to 3.0m, but once again on the plans, there is demarcation that any planting will be kept below 600mm, keeping an effective cycle width.

The applicant has taken a shared surface approach in the majority of the housing parcel; however, the Site Plan shows a 3m connection through the POS adding permeability to the site. To avoid cyclists clashing with the NCN2, staggered barriers are proposed to slow cyclists joining – this is welcoming, but the applicant should make sure the staggered barriers are placed 3m apart. In addition to this, the site plan shows a pedestrian access point north of plot 42 connecting to an existing footpath that runs adjacent to the site.

It is also noted that there are links between the POS with an adjacent site to the east.

#### *Provision of Link road*

The application also consists of a link road that goes beyond the main access points and continues through to the red line boundary towards the north of the site. The applicant has again provided a raised crossing point at the driving range access point as per good practise. The purpose of the road is not needed to serve the parcels being promoted as part of this application and any forthcoming parcels that may use this access road and subsequent junctions will have to be determined on their own merits.

It is noted however that there is a kink in the “link road” and that the position of the driving range impinges on the link road; therefore prior to any construction of the link road, details of its geometry will need to be provided.

Continuous cycleways linking up parcels is a key element of good planning; it is noted there is a live planning application to the east of the link road (ECC Planning Ref: 19/1465/OUT); Drawing number *BRM-010-LANDSCAPE Rev 5.1* shows an indicative link to this and therefore more details prior to construction of the link road is required and conditioned. The relationship between the cycle crossing and the link road will need to be considered.

#### On site facilities

The onsite layout appears to have enough parking spaces on site together with a number of visitor parking bays. Many of the onsite parking spaces are located immediately outside of the respective properties which should minimise on street parking and is welcomed.

It is not clear if secure covered cycle parking has been provided for all of the dwellings proposed the applicant should provide further detail and the quantum should meet the standard set out in the Sustainable Transport SPD. To complement the good links to cycle routes, a condition is recommended to ensure secure cycle parking is provided.

To further advocate the requirement for sustainable development, the applicant has provided space for parking of a shared car together with the electricity supply. In addition, the applicant has provided an area for up to 10 Co-bike stands with electricity supply. These are located to the site entrance and are shown on Drawing number *BRM-010-LANDSCAPE Rev 5.1*; the provision of both of these measures are supported as advocate the sustainable transport mantra as supported by ECC Policy CP9 and the NPPF.

### Travel Planning

In accordance with paragraph 111 of the NPPF the development will be required to have a Travel Plan. DCC is currently adopting an approach for residential Travel Planning in the Exeter area with contributions paid directly to the Council for them to implement the Travel Plan and its measures. Consequently, a contribution of £500 per dwelling should be secured as part of any S106 agreement.

### Construction

To minimise the impact on the adjacent highway, construction traffic and arrangements should be carefully managed, this includes ensuring space is made on site to contain operatives vehicles. These arrangements should be secured by condition.

### Summary

In summary, it is considered that this standalone application is not considered a severe impact on the highway. Much emphasis has been put on the accessibility of the site and its relation to Exeter Road and it is believed that the site has maximised permeability through the site and is acceptable subject to appropriate conditions/S106 contributions (Travel Planning and TRO)."

## **11.0 Representations**

65 letters of representation have been received (61 objections (including one from the Topsham Society), and 4 support), raising the following issues:

## Objections -

- Developer should complete their other developments before starting another one
- Obliterate 'Topsham Gap' and separation from Exeter contrary to Council's policy LS1
- Lack of affordable housing – that provided isn't affordable
- If permitted should be 100% affordable housing
- Extra traffic congestion – rush hour traffic backed up from Countess Wear roundabout. Associated impact on employment efficiency due to extended travel to work times
- Difficulties of access for emergency vehicles resulting from congestion/extra traffic
- Traffic Study flawed assessment – not take into account potential future development facilitated by potential link road
- Lack of infrastructure capacity – dentists, doctors, opticians, schools, vets etc.
- Timing of application – Due to Coronavirus situation lack of opportunity for proper public consultation and scrutiny
- Topsham overrun with traffic and cars, congestion, roads can't cope
- Loss of character of town and consequent impact on Exeter's tourism offer
- Topsham had more than its fair share of development
- Question the need for more housing in this location
- Air pollution, light pollution, noise pollution
- Loss of farm/agricultural for valuable food production
- Impact on wildlife
- Shouldn't be influenced by precedence of previous decision, unless to appreciate negative impacts
- Impact on pedestrian path/National cycle route along site frontage
- Developers change plans after achieving consent – comments should not be trusted
- Increased flooding risk – drain capacity
- Sewerage problems
- Loss of green space – physical and psychological importance
- Impact on trees/hedgerows
- Not address housing needs of people of Exeter
- Potential link to land to north (Newcourt Road) opening up further development exacerbates concerns
- Disturbance during construction – dust, noise etc.
- Reference to previous decision where Inspector identified only 'moderate harm' – not a precedent
- Poor design – not in character, inadequate landscaping to mitigate
- Overdevelopment
- Local residents don't want it
- Contrary to policy LS1

- Parking provision level encourages more car use
- Under provision of parking
- Not represent sustainable development
- Compromise safe operation of Topsham Golf Academy due to proximity – risk to future residents. Would need 30 and 20 metre high fences – adverse visual impact
- Impacts of floodlights on potential residents
- Need for pedestrian permeability within development
- Excessive development in Topsham adversely affecting property values

#### Support -

- Owners have right to dispose of their land and retire
- Topsham character is not merely a product of its physical separation from Exeter but its history and architecture – this development not adversely impact that
- Additional housing needed – brings revenue
- Infrastructure comes with development, especially drainage and sewage
- More job opportunities
- Will naturally slow traffic along Exeter Road and thereby help safety
- Site not currently publically accessible – no real scenic contribution
- Exeter needs housing sites to expand
- Welcome cycle storage provision, confirmation that cycle priority on National Cycle Route will be maintained, pedestrian permeability within site (Exeter Cycling Campaign).

## **12.0 Relevant Policies**

### **Government Guidance**

National Planning Policy Framework (NPPF) (February 2019)  
Planning Practice Guidance (PPG)

### **Core Strategy (Adopted 21 February 2012)**

Core Strategy Objectives

CP1 – Spatial Strategy

CP3 – Housing

CP4 – Density

CP5 – Mixed Housing

CP7 – Affordable Housing

CP9 – Transport

CP10 – Meeting Community Needs

CP11 – Pollution

CP12 – Flood Risk

CP14 – Renewable and Low Carbon Energy

CP15 – Sustainable Construction

CP16 – Green Infrastructure, Landscape and Biodiversity

CP17 – Design and Local Distinctiveness  
CP18 – Infrastructure

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

AP1 – Design and Location of Development  
AP2 – Sequential Approach  
H1 – Search Sequence  
H2 – Location Priorities  
H5 – Diversity of Housing  
H7 – Housing for Disabled People  
L3 – Protection of Open Space  
L4 – Provision of Playing Pitches  
T1 – Hierarchy of Modes  
T2 – Accessibility Criteria  
T3 – Encouraging Use of Sustainable Modes  
T5 – Cycle Route Network  
T6 – Bus Priority Measures  
T9 – Access to Buildings by People with Disabilities  
T10 – Car Parking Standards  
C5 – Archaeology  
LS1 – Landscape Setting  
LS2 – Ramsar/Special Protection Area  
EN2 – Contaminated Land  
EN3 – Air and Water Quality  
EN4 – Flood Risk  
EN5 – Noise  
EN6 – Renewable Energy  
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

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

W4 – Waste Prevention  
W21 – Making Provision for Waste Management

**Development Delivery Development Plan Document (Publication Version, July 2015)**

This document represents a material consideration but has not been adopted and does not form part of the Development Plan and therefore carries limited weight.

DD1 – Sustainable Development  
DD8 – Housing on Unallocated Sites

DD9 – Accessible, Adaptable and Wheelchair User Dwellings  
DD10 – Loss of Residential Accommodation  
DD13 – Residential Amenity  
DD20 – Accessibility and Sustainable Movement  
DD21 – Parking  
DD22 – Open Space, Allotments, and Sport and Recreation Provision  
DD25 – Design Principles  
DD26 – Designing out Crime  
DD28 – Conserving and Managing Heritage Assets  
DD29 – Protection of Landscape Setting Areas  
DD30 – Green Infrastructure  
DD31 – Biodiversity  
DD33 – Flood Risk  
DD34 – Pollution and Contaminated Land

### **Exeter City Council Supplementary Planning Documents**

Affordable Housing SPD (April 2014)  
Archaeology and Development SPD (Nov 2004)  
Sustainable Transport SPD (March 2013)  
Planning Obligations SPD (April 2014)  
Public Open Space SPD (Sept 2005)  
Residential Design Guide SPD (Sept 2010)  
Trees and Development SPD (Sept 2009)

### **Other documents**

Exeter Fringes Landscape Sensitivity and Capacity Study February 2007 (Zone 22)

### **Devon County Council Supplementary Planning Documents**

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

## **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

This Recommendation is based on adopted Development Plan policies, the application of which does not prejudice the Human Rights of the applicant or any third party.

## **14.0 Public Sector Equalities Duty**

As set out in the Equalities Act 2010, all public bodies, in discharging their functions must have “due regard” to this duty. There are 3 main aims:-



- Removing or minimising disadvantages suffered by people due to their protected characteristics
- Taking steps to meet the needs of people with certain protected characteristics where these are different from the needs of other people
- Encouraging people with certain protected characteristics to participate in public life or in other activities where participation 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 taken into consideration the requirements of the PSED.

- Combined foot/cycle paths facilitating level access to public transport
- Level access to dwellings
- Health Care – Contribution secured towards enhanced GP services provision.

## **15.0 Financial benefits**

### Material considerations

Affordable housing, 20 dwellings

Quantum of greenspace – approx. 3210sq m split into 3 parcels across site.

Contributions to health care of £26,838 towards enhanced GP services provision.

£500 per dwelling towards Travel Plan initiatives

Education Contributions

Up to £10,000 Traffic Regulation Order contributions.

Proposal will create jobs in construction and related industries.

### 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 £119.92 per sq metre plus new index linking. Confirmation of the final CIL charge will be provided to the applicant in a CIL liability notice issued prior to the commencement of the development. All liability notices will be adjusted in accordance with the national All-in-Tender Price Index of construction costs published by the Building Cost Information Service (BCIS) of the Royal Institute of Chartered Surveyors for the year when planning permission is granted for the development. Full details of current charges are on the Council's website. The rate per sq m granted for 2020 for this development is £119.29.

New Homes Bonus

## **16.0 Planning Assessment**

The key issues are:

1. The Principle of the Proposed Development
2. Affordable Housing
3. Access/Impact on Local Highways and parking provision
4. Scale, design, impact on character and appearance
5. Impact on Heritage Assets
6. Impact on Trees and Biodiversity
7. Flood Risk and Surface Water Management
8. Sustainable Construction and Energy Conservation

#### 1. The Principle of the Proposed Development

There are a number of material planning considerations that need to be assessed in connection with this application. However in terms of the overall context for determination of the application it is important to highlight the position in relation to the Council's 5 year housing land supply and implications for relevant development plan policies.

Most recently this position has been highlighted in the consideration of an application for residential development of land in relatively close proximity to the current application site, namely application 17/1148/OUT for land at Clyst Road. During this recent Public Inquiry it was accepted that the Council could only demonstrate a 5 year land supply of just over 2 years and 1 month. Although this has improved slightly recently the Council is still significantly short of being able to demonstrate a 5 year housing land supply. This is important when weighing up the planning balance in reaching a decision on the current application.

The current application site lies within an area identified as Landscape Setting in both the Adopted Local Plan and Core Strategy – Policies LS1 and CP16 respectively.

Policy LS1 states –

“Development which would harm the Landscape Setting of the city will not be permitted. Proposals should maintain local distinctiveness and character and:

- (a) Be reasonably necessary for the purposes of agriculture, forestry, the rural economy, outdoor recreation or the provision of infrastructure; or
- (b) Be concerned with change of use, conversion or extension of existing buildings;

Any built development associated with outdoor recreation must be essential to the viability of the proposal unless the recreational activity provides sufficient benefit to outweigh any harm to the character and amenity of the area.”

Whilst it is not considered that the proposed development would satisfy the requirements of this policy, in the Clyst Rd appeal mentioned above the Inspector referred to the policy as being based on outdated information, superseded by national policy and thereby concluded that conflict with this policy should be afforded limited weight. These comments are considered valid and as such it is equally considered that conflict with policy LS1 should be afforded limited weight in the determination of this application. The Inspector also attached no weight to policy DD29 of the emerging Development Delivery DPD due to the fact that it has not been progressed to submission and is likely to be delayed until sufficient progress has been made with the intended Greater Exeter Strategic Plan (GESP). It is accepted that no significant weight should be attached to DDDPD policies in the consideration of this current application

Therefore the critical policy against which to judge the merits of the principle of residential development of the application site is policy CP16. The relevant section of policy CP16 is its third paragraph which reads as follows -

“The character and local distinctiveness of the areas identified below, 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 hills to the north and north west;
- Knowle Hill to the south west;
- the strategic gap between Topsham and Exeter;
- and the Valley Parks: Riverside, Duryard, Mincinglake, Ludwell, Alphington to Whitestone Cross, Savoy Hill and Hoopern.”

The key consideration therefore in respect of the application proposal in terms of its acceptability from a policy context is considered to be –

- a) whether it would harm the landscape setting of the city by virtue of its impact upon the local distinctiveness and character of the area, and
- b) if it is determined that there is harm in this respect, whether taking into account other material considerations, such as the absence of a 5yr housing land supply, that harm/adverse impact significantly and demonstrably outweighs the benefits of the proposal in terms of the provision of much needed housing to meet identified needs.

Therefore a case specific assessment of the harm/impact arising from the scheme is required. The explanatory text to policy CP16 states the following in respect of the Topsham Gap –

“The strategic gap between Topsham and Exeter is also particularly important in that it forms an open break between the two settlements, thus preventing their coalescence, whilst also protecting Topsham’s attractive setting. Whilst this area

has a low intrinsic landscape value, the role it plays makes it sensitive to development.”

The site forms does form part of the ‘Topsham Gap’ and whilst it is located more towards the norther fringes of the town it still contributes to the sense of separation from Exeter as part of the more open countryside to the north of Topsham. In terms of the Exeter Fringes Landscape Sensitivity and Capacity Study 2007 the land forms part of land parcel 22 which is identified as being of ‘medium’ landscape sensitivity. In terms of housing capacity this document concludes it has limited capacity and that the land to the north of Exeter Road should remain open.

It is fact that the scheme would result in development of part of the Topsham gap and landscape setting around Topsham, and would consequently harm the character of part of it. However, the development of this site, which already contains a single residential dwellings and holiday accommodation, would not in itself lead to any material coalescence between the two settlements. Its landscape sensitivity is identified as medium and in the context of the character of the immediate vicinity of the site, and the fact that other land nearby has recently been granted permission for residential development (some on appeal), it is not considered that this proposal would have a significant urbanising effect to the extent that refusal would be justified. There would still remain open land between the site and the Motorway and therefore whilst the ‘gap’ would be eroded its function in respect of preventing coalescence in terms of policy CP16 would be maintained and the remaining gap would continue to serve its purpose of separation. In this context the harm to the landscape setting arising from this particular proposal is considered acceptable.

Even if a contrary view of the proposal with regard to the degree of harm resulting from it on the landscape setting and local distinctiveness and character of the area is adopted, it would be necessary to balance this against the Council’s inability to demonstrate a 5 year housing supply. In the recent appeal decision in respect of the Clyst Road site, despite considering that the scheme would not protect the character and local distinctiveness of the strategic gap in that case the Inspector concluded “in the light of the considerable housing shortfall, the contribution that the appeal scheme would make to the supply of housing is an important material consideration that is sufficient to outweigh the adverse effect that would be caused to the character and local distinctiveness of the strategic gap and conflicts with the relevant development plan policies in this instance.” It is considered that a similar conclusion applies to the consideration and determination of this current proposal.

In light of the early stage of the GESP, which has not yet been subject to public consultation in respect of potential site allocations, it is not considered that a refusal of the current proposal on the grounds of prematurity could be sustained. It is necessary therefore to consider the proposal in the context of the adopted

Development Plan and the Council's position in respect of its 5 year housing land supply.

Given the above assessment of the merits of the scheme the proposal is considered acceptable from a landscape setting policy perspective.

## 2. Affordable Housing

The development will provide 20 affordable dwellings of which 14 (70%) will be provided as social rent and 6 as intermediate units (shared equity). The submitted plans identify the following breakdown of the social rented units 6 2-bed dwellings, 4 3-bed dwellings and 4 1-bed flats. The Intermediate units comprise 6 3-bed units.

The affordable housing dwellings will be spread across the site in a number of clusters the largest of which comprises 12 units, with further smaller clusters comprised of 2 and 4 dwellings. The affordable housing and associated financial contribution will be secured through S106 obligations.

## 3. Access/Impact on Local Highways and parking provision

The access to the development is provided from the existing road junction onto Exeter Road that serves the Golf Driving range. A series of internal roads will feed off this to serve the individual dwellings in the form of a loop and a series of cul-de-sacs. The proposal also provides for the provision of the extension of existing road into the site past the Golf Driving range up to the northern boundary of the site which could potentially open up further land for development in the future. Any such proposals in the future would obviously have to be subject to separate planning applications for consideration on their own individual merits. As part of the proposal 3 raised tables are proposed on Exeter Road as traffic calming measures reflecting the changing nature of the road and increased traffic arising from the proposed dwellings, together with relocation of the Exeter bound bus stop in line with discussions with both the Highway Authority and Stagecoach.

The proposal incorporates appropriate provision for pedestrian and cycle usage as part of the road layout, including connections to adjoining land and the National Cycle Route that runs along the site frontage.

The parking strategy adopted comprises predominantly on-plot provision through a combination of garages and driveways, with one small section of parking spaces grouped in a run at right angles to the road appropriately broken up with landscaping to avoid an overly vehicle dominated environment. Those properties without garages are provided with separate cycle storage provision in the form of sheds within the rear gardens of the properties. Also included with the layout is

provision of space for a car club parking bay and space for up to 10 publically available electric bikes ready for an appropriate provider.

As can be seen from the consultation response above the Highway Authority have given consideration to the traffic generation of the scheme and its impacts on the highway network, access arrangements, parking provision and the sustainable transport credentials of scheme in reaching their recommendation of approval subject to S106 contributions and appropriate conditions. Paragraph 109 of the NPPF states:

*“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”*

Based on the recommendation of the Highway Authority, Officers consider there are no highways grounds to refuse the application, as the impacts will not be severe and the layout incorporates appropriate provision to ensure safe access is provided for all users. Conditions are proposed to cover appropriate matters as raised by the Local Highway Authority.

#### 4. Scale, design, impact on character and appearance

The layout incorporates 3 areas of open space of different sizes. The two main areas of open space are located on the front part of the site adjoining Exeter Road (although separated from it by the retained or new hedgerows. Each of these open spaces have dwellings fronting onto them providing natural surveillance whilst at the same time reinforcing their function as focal points of the development. Initially there were concerns over the amount of open space and its usability and given the existing and potential developments to the east of the site, it was considered desirable that a greater degree of the open space be provided alongside this boundary so that combined the open spaces from these developments could provide a larger and more useable space that would maintain a sense of openness along the road frontage. Due to constraints relating to the possible locations for underground surface water attenuation tanks, it has not been possible to locate all the open space in this position. However, the applicant has responded to the officer concerns expressed and increased the overall amount of open space provided, with the additional amount situated in the preferred position requested during negotiations. This has resulted in the reduction of number of dwellings provided on the site by 3 but is considered to have resulted in better scheme overall, with more useable open space, as a result.

Parking provided predominantly on-plot ensures that the public realm is not highway dominated and the use of differing road materials within private drives helps to create visual variety and break-up the hard surfaces. The majority of buildings are 2 storey in height which reflects the prevailing character of existing

dwellings in the locality. The design of the dwellings, and materials proposed, reflect the approach adopted by the same developer on a site nearby on the opposite side of Exeter Road. The contemporary design will provide an interesting contrast to the other styles in the vicinity, and overall the development is considered visually acceptable and appropriate in the context of the character and appearance of the locality generally.

The dwellings have been located appropriate distances off the site boundaries and therefore the impact on the amenity of surrounding properties is considered acceptable. With regard to the Golf Driving range to the north the representation from the golf club has been noted. However, there is existing residential and B&B accommodation close to this boundary and the issue of stray golf balls landing within the grounds of this property already exists. It is the responsibility of the driving range operators to ensure that measures are in place to prevent stray balls causing a nuisance to adjoining land. The applicant has pointed that the existing problem is partly a result of the incorrect setting out of the driving range building. Discussions have taken place between the applicant and the Golf Club regarding the matter and potential solutions. However in this context it is not considered that it would be reasonable to require the applicant, through a condition, to provide a boundary treatment on their land to address an existing issue, or to effectively sterilise part of their site by requiring dwellings along this boundary to be located further away.

In terms of internal space standards and garden sizes the proposed development is considered acceptable. The layout is also considered to represent an appropriate compromise between securing the greatest number of dwellings on the site, whilst at the same time creating an attractive residential environment appropriate to the character and appearance of the area.

#### 5. Impact on Heritage Assets

The submitted geophysical survey identifies two areas of potential archaeological remains which requires some trial trenching to establish their importance/significance, and potential impact on the proposed layout prior to determination of the application. The applicant has commissioned this, and the work has recently been undertaken. Based on the results it is considered that the below ground heritage assets are not of such significance or level of preservation that they would impact on the proposed layout. Further recording and reporting of the results can be appropriately addressed through a condition attached to any approval. Aside from archaeological matters there are no other heritage assets that will be affected by the proposal. Therefore in this respect the scheme is considered acceptable subject to the recommended condition.

#### 6. Impact on Trees and Biodiversity

Aside from the boundary hedgerows, and a couple of relatively small trees, the site does not contain any significant trees or landscaping features. The existing hedgerow to the road frontage will be retained and enhanced (by an additional section of bank and hedgerow to fill in the gap comprising the existing access to Broompark itself). The existing hedgerows to the east and west boundaries of the site will also be retained whilst the northern boundary to the driving range will be enhanced with new planting and trees as part of the boundary treatment of the new housing.

The submitted Ecological Appraisal identifies the site as being of very limited ecological value and appropriate surveys for protected species have been carried out, the conclusions of which are that the development would have no significant adverse impacts, and in respect of badger habitat impacts can be appropriately addressed through the licencing process following any grant of planning permission. The creation of various parcels of open space throughout the site, and associated landscaping together with incorporation of bat/bird bricks within the fabric of the new houses could actually result in enhancement of the site's biodiversity/ecological interest. This can be secured through appropriate conditions relating to landscaping and a Biodiversity Mitigation and Enhancement Plan (BMEP).

This development has been screened in respect of the need for an Appropriate Assessment (AA) and given the nature of the development it has been concluded that an AA is required in relation to potential impact on the relevant SPA's. This AA has been carried out and concludes that the development is such that it could have an impact primarily associated with recreational activity of future occupants of the development. This impact will be mitigated in line with the South-east Devon European Site Mitigation Strategy prepared by Footprint Ecology on behalf of East Devon and Teignbridge District Councils and Exeter City Council (with particular reference to Table 26), which is being funded through a proportion of the CIL collected in respect of the development being allocated to funding the mitigation strategy.

## 7. Flood Risk and Surface Water Management

The revised submitted Flood Risk Assessment (FRA) and Drainage Strategy identifies that the site is located within Flood Zone 1 and is therefore at very low risk of flooding from rivers or sea and not at risk from surface water flooding. Therefore the site is considered suitable for residential development in this respect.

The approach to surface water drainage is influenced by the relatively high groundwater level across the site which limits the feasibility of utilising soakaways as an approach. Consequently, the approach proposed is a combination of subbase infiltration in areas of private drives with attenuation for the remainder of the site. Discharge rates from the surface water attenuation



features into the surface water drainage system will be controlled to greenfield run off rates. The FRA also states that SWW have confirmed capacity exists to accommodate the drainage from the site.

DCC as the LLFA objected to the initial FRA and Drainage Strategy. Following negotiations revised information, including a revised FRA and Drainage Strategy, has been submitted. Based on this revised information the LLFA have withdrawn their initial objection and recommended a condition relating to the detailed design of the drainage proposals.

## **8. Sustainable Construction and Energy Conservation**

In line with Core Strategy policy a condition is proposed relating to sustainable construction to achieve a betterment in relation to the Building Regulations.

### **CIL/S106**

The development is CIL liable and a S106 agreement will be required to secure the affordable housing provision, open space (provision, equipped play area details, public access and maintenance), and a financial contribution towards enhanced GP facilities/provision in the locality.

The request from the Royal Devon and Exeter NHS Foundation Trust for a financial contribution to be secured through a S106 agreement is one of a number of similar requests submitted by the Trust in respect of recent residential applications under consideration by the Council. Officers have responded generically to these requests outlining why it is considered that they are not considered to meet the necessary tests relating to S106 obligations, and consequently are not being sought in connection with these developments.

The development will result in additional population in the locality which will create additional demand for GP services. Given that the existing GP provision in the locality is already at over-capacity the requested S106 financial contribution towards enhanced provision to meet the demand generated by the proposed development is considered justified in terms of the relevant tests to be applied to requested contributions.

In their consultation response as Education Authority DCC have highlighted the additional demand for early years, primary and secondary places arising from the development. They have also identified a lack of capacity within the system to meet this additional demand generated by the new housing proposed. Consequently they have requested education contributions be secured through S106 contributions as set out under the consultations section of this report in line with their published methodology. The proposed heads of terms for the S106 thus reflect DCC education contributions request.

Highway related S106 contributions as set out in the formal consultation response.

## 17.0 Conclusion

The Council is still unable to demonstrate a 5 year housing land supply and the proposal will make a contribution towards housing delivery. The development is considered acceptable in terms of its design/amenity and transportation impacts, and sustainable in terms of its location. Therefore, the officer recommendation is one of approval as set out below.

## 18.0 **RECOMMENDATION** Dual Recommendation as set out below with B) only applying in the event of the failure to complete the S106 Agreement within the prescribed timeframe: -

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

- Affordable housing.
- Open space provision including equipped children's play area, maintenance and public access in perpetuity.
- Education contributions – Early Years £14,500, Primary £281,546 and Secondary £206,407.
- Contribution of £26,838 towards enhanced GP facilities/provision in the locality.
- £500 per dwelling towards sustainable travel measures (Travel Planning)
- Up to £10,000 Traffic Regulation Order contributions relating to the proposed raised tables, car club and electric cycle parking spaces
- All S106 contributions should be index linked from the date of resolution.

And the following conditions:

1) The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted.

**Reason:** To ensure compliance with sections 91 and 92 of the Town and Country Planning Act 1990.

2) The development hereby permitted shall not be carried out otherwise than in strict accordance with the submitted details received by the Local Planning Authority on 4th March, 27th, 28th and 29th July, and 15th September 2020 (including dwg. nos. 1415/P100 Rev G, BRM-010-Landscape Rev 5.2, BRM-010-Phasing Rev 5.2, 1415/P103 Rev C, 1415/P104 Rev D, 1415/P105 Rev D,

1415/P120 Rev C, 1415/P121 Rev C, SK008, 1415/Dn-3 Rev C, 1415/Dn-4 Rev C, 1415/T-1 Rev A, 1415/Ap-1 Rev C, 1415/Bm-1 Rev B, 1415/Ap-2 Rev C, 1415/But-3 Rev A, 1415/T-2 Rev A, 1415/But-4 Rev A, 1415/Bm-2 Rev B, 1415/Gr-1 Rev C, 1415/Gr-2 Rev B, 1415/FI-1 Rev A, 1415/Gr-3 Rev B, 1415/FI-2 Rev A, 1415/Hr-1 Rev A, 1415/Hc-2 Rev B, 1415/Hr-2 Rev A, 1415/Hc-1 Rev B, 1415/Kn-1 Rev C, 1415/Slt-1 Rev A, 1415/Pt-1 Rev C, 1415/Pt-2 Rev C, 1415/Slt-2 Rev A, 1415/Kn-2 Rev C, 1415/T5, and 1415/T6) as modified by other conditions of this consent.

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

3) **Pre commencement condition:** No development shall take place on site until a full investigation of the site has taken place to determine the extent of, and risk posed by, any contamination of the land and the results, together with any remedial works necessary, have been agreed in writing by the Local Planning Authority. The buildings shall not be occupied until the approved remedial works have been implemented and a remediation statement submitted to the Local Planning Authority detailing what contamination has been found and how it has been dealt with together with confirmation that no unacceptable risks remain.

**Reason for pre-commencement condition:** In the interests of the amenity of the occupants of the buildings hereby approved. This information is required before development commences to ensure that any remedial works are properly considered and addressed at the appropriate stage.

4) **Pre-commencement condition:** - No development hereby permitted shall commence until the following information has been submitted to and approved in writing by the Local Planning Authority:

- (a) A detailed drainage design based upon the Flood Risk Assessment and Drainage Strategy (Ref.19030; Rev. A; dated 23rd July 2020).
- (b) Detailed proposals for the management of surface water and silt runoff from the site during construction of the development hereby permitted.
- (c) Proposals for the adoption and maintenance of the permanent surface water drainage system.
- (d) A plan indicating how exceedance flows will be safely managed at the site.
- (e) A detailed assessment of the condition and capacity of any existing surface water drainage system/watercourse/culvert that will be affected by the proposals. The assessment should identify and commit to, any repair and/or improvement works to secure the proper function of the surface water drainage receptor.
- (f) Evidence there is agreement in principle from SWW/ landowner/DCC Highways to connect into their system
- (g) An assessment of the potential impacts of groundwater on the surface water drainage system, such as 'floatation'. The assessment should also include the construction of the features.

No building hereby permitted shall be occupied until the works have been approved and implemented in accordance with the details under (a) - (g) above.

**Reason for pre-commencement condition:** The above conditions are required to ensure the proposed surface water drainage system will operate effectively and will not cause an increase in flood risk either on the site, adjacent land or downstream in line with SuDS for Devon Guidance (2017) and national policies, including NPPF and PPG. The conditions should be pre-commencement since it is essential that the proposed surface water drainage system is shown to be feasible before works begin to avoid redesign / unnecessary delays during construction when site layout is fixed.

**5) Pre-commencement condition:** A Construction Environmental Management Plan shall be submitted to and agreed in writing by the Local Planning Authority prior to the commencement of development on site and adhered to during the construction period. This should include details of monitoring and mitigation measures to control the environmental impact of the development during the construction and demolition phases, including site traffic and traffic routing, the effects of piling and emissions of noise and dust. The CEMPs should contain a procedure for handling and investigating complaints as well as provision for regular meetings with appropriate representatives from the Local Authorities during the development works, in order to discuss forthcoming work and its environmental impact.

**Reason for pre-commencement condition:** In the interest of the environment of the site and surrounding areas. This information is required before development commences to ensure that the impacts of the development works are properly considered and addressed at the earliest possible stage.

**6) Pre-commencement condition:** Prior to the commencement of the development hereby permitted, a Waste Audit Statement shall be submitted to and approved in writing by the Local Planning Authority. This statement shall include all information outlined in the waste audit template provided in Devon County Council's Waste Management and Infrastructure Supplementary Planning Document. The development shall be carried out in accordance with the approved statement.

**Reason for pre-commencement condition:** To minimise the amount of waste produced and promote sustainable methods of waste management in accordance with Policy W4 of the Devon Waste Plan and the Waste Management and Infrastructure Supplementary Planning Document. These details are required pre-commencement as specified to ensure that building operations are carried out in a sustainable manner.

**7) Pre-commencement condition:** No materials shall be brought onto the site or any development commenced, until the developer has erected tree protective fencing around all trees or shrubs to be retained, in accordance with a plan that shall previously have been submitted to and approved in writing by the Local Planning Authority. This plan shall be produced in accordance with BS 5837:2012 - Trees in Relation to Design, demolition and construction. The developer shall maintain such fences to the satisfaction of the Local Planning

Authority until all development the subject of this permission is completed. The level of the land within the fenced areas shall not be altered without the prior written consent of the Local Planning Authority. No materials shall be stored within the fenced area, nor shall trenches for service runs or any other excavations take place within the fenced area except by written permission of the Local Planning Authority. Where such permission is granted, soil shall be removed manually, without powered equipment.

**Reason for pre-commencement condition** - To ensure the protection of the trees during the carrying out of the development. This information is required before development commences to protect trees during all stages of the construction process.

**8) Pre-commencement condition:** Before commencement of construction of the development hereby permitted, the applicant shall submit a SAP calculation which demonstrates that a 19% reduction in CO2 emissions over that necessary to meet the requirements of the 2013 Building Regulations can be achieved. The measures necessary to achieve this CO2 saving shall thereafter be implemented on site and within 3 months of practical completion of any dwelling the developer will submit a report to the LPA from a suitably qualified consultant to demonstrate compliance with this condition.

**Reason for Pre-commencement condition:** In the interests of sustainable development and to ensure that the development accords with Core Strategy Policy CP15.

**9) Pre-commencement condition:** Prior to the commencement of development a Biodiversity Mitigation and Enhancement Plan (BMEP) which demonstrates how the proposed development will be managed in perpetuity to enhance wildlife, together with a programme of implementation, shall be submitted to and approved in writing by the Local Planning Authority. The BMEP will be expected to include the provision of integral bat/bird bricks within the dwellings equivalent to a ratio of one/dwelling in line with the advice contained with the Council's adopted Residential Design SPD. The development shall thereafter be implemented and maintained in accordance with the approved Plan and programme of implementation.

**Reason for pre-commencement condition** - In the interests of protecting and improving existing, and creating new wildlife habitats in the area.

**10) Pre commencement condition:** No development related works shall take place within the site until a written scheme of archaeological work has been submitted to and approved in writing by the Local Planning Authority. This scheme shall include on-site work, and off site work such as the analysis, publication, and archiving of the results, together with a timetable for completion of each element. All works shall be carried out and completed in accordance with the approved scheme, unless otherwise agreed in writing by the Local Planning Authority.

**Reason for pre commencement condition:** To ensure the appropriate identification, recording and publication of archaeological and historic remains affected by the development. This information is required before development commences to ensure that historic remains are not damaged during the construction process.

11) **Pre-commencement condition:** - Prior to the commencement of the development hereby approved a construction programme detailing the order in which the phases identified on drawing no. BRM-010-Phasing Rev 5.2 will be constructed shall be submitted to, and be approved in writing by, the Local Planning Authority. Thereafter the development shall be implemented in accordance with the agreed construction programme.

**Reason for Pre-commencement condition:-** To ensure that the implementation of the development, and hence relevant triggers referred to in the conditions attached to this consent are clearly understood and agreed.

12) Prior to the first occupation of any dwelling hereby approved the relevant mitigation requirements outlined in Acoustic Associates SW Ltd's Environmental Noise Impact Assessment (project ref: 7363, date: 24/07/2020) shall be met and implemented in full, and be maintained thereafter at all times unless otherwise agreed in writing by the Local Planning Authority.

**Reason -** To ensure that an acceptable residential environment is created for future occupants of the properties.

13) Prior to commencement of construction of any part of the link road beyond plot 61 up to the northern boundary, as hatched in yellow on drawing no. BRM-010-Landscape Rev 5.2, details shall be submitted to the Local Planning Authority of its geometry and construction, together with details (including a timeframe for delivery) of a pedestrian/cycle connection from this road up to the boundary of the applicant's land ownership with the adjoining land to the east of the application site at a point to be agreed in writing as part of those details. Construction of this link road shall not be commenced until such details have been agreed in writing by the Local Planning Authority in consultation with the Highway Authority, and thereafter this section of road, and the pedestrian/cycle connection, shall be completed in accordance with the approved details.

**Reason:** To provide a safe and suitable access in accordance with paragraph 108 of the National Planning Policy Framework.

14) Prior to the first occupation of any individual dwelling identified on drawing no. 1415/P104 Rev D as being provided with cycle storage provision within the rear garden of that property, the said cycle storage provision shall be provided and made available for use in accordance with details that shall previously have been submitted to and approved in writing by the Local Planning Authority.

**Reason -** To ensure that adequate provision for the storage of cycles is provided to serve these dwellings.

15) A 3m footway/cycleway link (together with staggered barriers) adjacent to Plot 54 to Exeter Road shall be delivered as part of Phase 1 or such other trigger point as shall be agreed in writing with the Local Planning Authority in consultation with the Local Highway Authority as indicated on Drawing Number BRM-010-LANDSCAPE Rev 5.2

**Reason:** To provide a safe and suitable access in accordance with paragraphs 108 and 110 of the National Planning Policy Framework and ECC Core Strategy CP9.

16) A footway link to the east of plot 42 shall be delivered up to the boundary of the applicant's land ownership as part of Phase 4 or such other trigger point as shall be agreed in writing with the Local Planning Authority in consultation with the Local Highway Authority as indicated on Drawing Number BRM-010 LANDSCAPE Rev 5.2

**Reason:** To provide a safe and suitable access in accordance with paragraphs 108 and 110 of the National Planning Policy Framework and ECC Core Strategy CP9.

17) Prior to the first occupation of the 15<sup>th</sup> dwelling comprising part of the development hereby approved a 2m wide footway adjacent to Exeter Road, associated crossing point and relocated bus shelter as indicated on Drawing number BRM-010-LANDSCAPE Rev 5.2 shall be provided in accordance with details that shall have been submitted to, and approved in writing by, the Local Planning Authority.

**Reason:** To provide a safe and suitable access in accordance with paragraphs 108 and 110 of the National Planning Policy Framework and ECC Core Strategy CP9.

18) Prior to the first occupation of any dwelling hereby approved within Phase 2 or 3 as identified on drawing no. BRM-010-Phasing Rev 5.2 the space for a 10 bike Co bike docking station and Parking bay for a Car Club vehicle within the respective phase (together with electricity supply to each element) shall be provided and made available for use as indicated on Drawing number BRM-010-LANDSCAPE Rev 5.2 in accordance with details that shall have been submitted to, and approved in writing by, the Local Planning Authority.

**Reason:** To provide adequate facilities for sustainable transport and ECC Core Strategy CP9.

19) Prior to the first occupation of the 15<sup>th</sup> dwelling comprising part of the development hereby approved, the three raised tables on Exeter Road (together with crossing points) as indicated on Drawing Number 205368-A-02 Rev C shall be provided in accordance with details that shall previously have been submitted to, and approved in writing by, the Local Planning Authority.

**Reason:** To provide a safe and suitable access in accordance with paragraphs 108 and 110 of the National Planning Policy Framework and ECC Core Strategy CP9.

20) A detailed scheme for landscaping, including the planting of trees and or shrubs, the use of surface materials and boundary screen walls and fences shall be submitted to the Local Planning Authority and no dwelling or building shall be occupied until the Local Planning Authority have approved a scheme; such scheme shall specify materials, species, tree and plant sizes, numbers and planting densities, and any earthworks required together with the timing of the implementation of the scheme. The landscaping shall thereafter be implemented in accordance with the approved scheme in accordance with the agreed programme.

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

21) 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.

22) Samples of the materials it is intended to use externally in the construction of the development shall be submitted to the Local Planning Authority. No external finishing material shall be used until the Local Planning Authority has confirmed in writing that its use is acceptable. Thereafter the materials used in the construction of the development shall correspond with the approved samples in all respects.

**Reason:** To ensure that the materials conform with the visual amenity requirements of the area.

23) Any trees, shrubs and/or hedges on or around the site shall not be felled, lopped or removed without the prior written consent of 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.

24) No site machinery or plant shall be operated, no process shall be carried out and no demolition or construction related deliveries received or dispatched from the site except between the hours of 8am to 6pm Monday to Friday, 8am to 1pm Saturday and at no time on Sundays, Bank or Public Holidays.

**Reason:** To protect the amenity of the locality, especially for people living and/or working nearby.

## **Informatives**



1) In accordance with Chapters 1 and 2 of the Conservation of Habitats and Species Regulations 2017, this development has been screened in respect of the need for an Appropriate Assessment (AA). Given the nature of the development, it has been concluded that an AA is required in relation to potential impact on the relevant Special Protection Areas (SPA), the Exe Estuary and East Devon Pebblebed Heaths, which are designated European sites. This AA has been carried out and concludes that the development is such that it could have an impact primarily associated with recreational activity of future occupants of the development. This impact will be mitigated in line with the South East Devon European Site Mitigation Strategy prepared by Footprint Ecology on behalf of East Devon and Teignbridge District Councils and Exeter City Council (with particular reference to Table 26), which is being funded through a proportion of the Community Infrastructure Levy (CIL) collected in respect of the development being allocated to fund the mitigation strategy. Or, if the development is not liable to pay CIL, to pay the appropriate habitats mitigation contribution through another mechanism (this is likely to be either an undertaking in accordance with s111 of the Local Government Act 1972 or a Unilateral Undertaking).

2) 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.

3) 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 (i.e. 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).

4) A legal agreement under Section 106 of the Town and Country Planning Act 1990 relates to this planning permission.

**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 12<sup>th</sup> APRIL 2021 OR SUCH EXTENDED TIME AS AGREED BY THE SERVICE LEAD – CITY DEVELOPMENT**

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

- Affordable housing
- Open space provision – play equipment, maintenance arrangements and public access in perpetuity
- Education contributions
- GP facilities contribution
- Sustainable Travel Planning contribution
- Traffic Regulation Order contributions

the proposal is contrary to Exeter Local Development Framework Core Strategy 2012 Objectives 3, 5, 6 and 10, policies CP7, CP9, CP10, and CP18, Exeter Local Plan First Review 1995-2011 saved policies AP1, T1, T3 and DG5, and Exeter City Council Affordable Housing Supplementary Planning Document 2014.