

Planning Performance Agreement (PPA)

Between:

Exeter City Council

and

Cildara (Exeter) Group

Date: 13th May 2022

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1. Introduction and Purpose

- 1.1 Exeter City Council is the local planning authority for the administrative area in which the development site is located.
- 1.2 The Applicant is Cildara (Exeter) Group whose assigned agent is the Water Lane Development Management Company Ltd.
- 1.3 The Water Lane Development Area (WLDA) for the sake of this Agreement is the area shown in Plan 1 at Appendix 1, incorporating the North and South Regeneration Zones as shown on the Plan.
- 1.4 The Site for the sake of this agreement is the area shown on the Plan at Appendix 2. The Applicant confirms their willingness to extend the site boundary within the WLDA with the mutual agreement of the parties should circumstances enable this.
- 1.5 The applicant is to submit an outline planning application seeking planning permission for the development described at 4.1 below for land within the Site. The planning application is to accompany and be set within a high-level Placemaking Framework for the wider WLDA.
- 1.6 The principle that comprehensive development of the WLDA as shown on Plan 1 should be delivered in due course is agreed by the Applicant and Exeter City Council. It is further understood and agreed that the outline planning application should not prevent or preclude a comprehensive development solution for the WLDA.
- 1.7 This PPA will encompass a comprehensive and optimal placemaking framework masterplan for the WLDA, which contextualises and informs the detailed proposals for the Site related outline planning application.
- 1.8 This Planning Performance Agreement (PPA) is an agreement between Exeter City Council (ECC) and the Applicant to provide a project management framework for handling this proposed major planning application from pre-application through to

determination, with the option for extending beyond to include discharge of conditions and Section 106 obligations.

- 1.9 This PPA is designed to improve and speed up the planning process by committing both parties to a positive working relationship, an agreed timetable containing actions and “milestones” that make clear what level of resources and actions are required, and to ensure that all key planning issues are properly considered and resolved.
- 1.10 The primary purpose of the PPA is to assist in the programming and resourcing of the pre-application process to bring forward a scheme that addresses the relevant planning considerations and can work towards achieving a positive recommendation from ECC officers.
- 1.11 This PPA provides a framework for resourcing the development process from pre-application to decision, post-determination activity relating to discharging conditions and obligations within any Section 106 agreement.
- 1.12 This PPA does not give any guarantee of planning permission. It relates to the process of considering development proposals at both pre-application and the formal determination stage, and not the decision itself in any way.
- 1.13 This agreement is made pursuant to Section 111 of the Local Government Act 1972 and Section 2 of the Local Government Act 2000.
- 1.14 Nothing in this agreement shall restrict or inhibit the Applicant(s) from exercising their right of appeal under Section 78 of the Town and Country Planning Act 1990.

2. General PPA Principles and Planning Objectives

2.1 The objective of this PPA is to put a framework in place that ensures co-operation and consistency throughout the negotiation and determination of this planning application, to provide a degree of certainty for the intended outcomes, to improve the quality of the project and of the planning decision.

2.2 Exeter City Council and the Applicant agree to be governed at all times by the following principles applying to this PPA:

Principle 1: To work together positively as a team and in good faith, and to respect each other's interests and confidentiality.

Principle 2: To commit, and provide promptly, information to support and manage the development process, in accordance with the Performance Standards contained in paragraph 5.9 of this agreement.

Principle 3: To ensure transparency and consistency at all times between all parties so that outcomes are anticipated, defined, understood and addressed.

Principle 4: To ensure effective and appropriate involvement and consultation with the community, statutory and other stakeholders, and any individual or group with a legitimate interest.

Principle 5: To reach agreement on milestones for the process, which will remain fixed unless agreed by all parties otherwise.

Principle 6: To identify and involve specialist consultees and advisors including other statutory authority's officers/managers where appropriate.

Planning Objectives

The applicant and the City Council will work together to seek to achieve the following objectives and planning outcomes for the site:

- Work together to progress the development scheme and ensure relevant planning issues are identified and addressed positively.
- Work together to ensure as far as possible the delivery of a planning application that is compliant with relevant policy and guidance.
- The submission of a planning application that will deliver the description of development in 4.1 and in accordance with the Development Principles below.
- Consider all relevant site constraints in detail and makes use of opportunities to deliver appropriate environmental mitigation to ensure the development can proceed.
- Ensure planning obligations are identified at an early stage to inform the development process and allow draft Heads of Terms to be drafted and agreed.

Project Vision and Objectives

The development will deliver a sustainable community in Water Lane set within a sustainable, connected, healthy, accessible and inclusive new neighbourhood, and which is underpinned by the principles within the Liveable Exeter vision document 2019 and incorporates the 'drivers for change' and the 'ingredients' of future place making in Exeter as set out in The Future Places Toolkit, and will feature:

- Compact, characterful, safe and healthy places
- Homes at high densities, but not always tall buildings
- Buildings that are well designed and Zero Carbon
- A vibrant mix of uses, including jobs, local services, shops, leisure and cultural facilities
- Walkable and wheelable streets and high quality public spaces with good access to public transport
- Low car use and provision of mobility hubs
- Space for nature and trees

Exeter City Council and the Applicant will work together to achieve a planning application for a development as described in 4.1, incorporating the above attributes, through an approach based on the following vision and principles derived from interpretation of the Toolkit for Future Placemaking in Exeter and its application to the constraints and opportunities across the Water Lane Development Area:

- **Deliverability:** the development proposal is to be deliverable in terms of physical and technical feasibility and financial viability.
- **Inclusion:** the new development is to be accessible to all and meet a variety of needs across the community.
- **Low Impact Living:** the new development is to have a low impact on the natural environment through its construction and operational phases. This includes priority for walking, cycling and public transport, construction methods and materials that minimise embodied carbon as far as is feasible, zero-carbon operational energy and a net gain in biodiversity of at least 10%.
- **Critical Mass and Composition:** to enable, optimal use of land and a viable development and mix of uses and to contribute positively to Exeter's urban form and legibility.
- **Connections, Streets and Spaces for People:** streets and spaces fronted by buildings to provide activity and interest, that contribute to wellbeing and enable walking, cycling and social interaction.
- **Homes for a Variety of Needs and Aspirations:** a mix of home types and tenures.
- **Community Life:** a development that provides an environment for people to live, work and socialise.
- **Character and Identity:** a development of distinctive character that contributes to Exeter's identity through contemporary design, informed by local precedents and history.
- **A Waterside Quarter:** a development that relates to and engages with the Exeter Ship Canal.

3. Pre-application Discussions

- 3.1 This PPA allows for a series of pre-application discussions as set out in the Application Programme (Appendix 3).

4. Form and Content of the Planning Application

- 4.1 It is proposed that an outline planning application will be submitted for (subject to variation as necessary):

Demolition of existing buildings and structures and residential-led mixed use development providing new homes, workspace/retail/café/restaurant/community/cultural/leisure/education/hotel uses and associated infrastructure, including vehicular access and servicing, mobility hub, energy plant; alteration of ground levels; drainage and public open space; landscaping and public realm works, including pedestrian and cycle routes, with all matters reserved for future consideration, with the exception of access.

An indicative list of application documents is set out in Appendix 4.

- 4.2 Any application will be determined with consideration of the following policies of the development plan, namely the adopted Core Strategy adopted February 2012 and the Local Plan First Review 1995-2011. Depending on the mix of uses proposed, this list may be revised. The Local Plan Review has commenced and, depending on the weight of any draft policies, these will be taken into account as appropriate. From a transport perspective the Exeter Transport Strategy 2020-2030, InnovaSUMP and Local Transport Plan 3 (2011-2026) are also relevant.

Core Strategy (to be read as a whole, with specific reference to the following policies):

- The Vision and Objectives
- Spatial Approach to Development (which provides specific reference to the Water Lane area)
- CP4 – Residential Development Density

- CP5 – Mix of Housing
- CP7 – Affordable Housing
- CP10 – infrastructure provision/protection
- CP11 – location of development/air quality/pollution
- CP12 – flood risk
- CP13 – Decentralised Energy Network
- CP14 – low carbon
- CP15 – sustainable construction
- CP16 – green infrastructure
- CP17 – sustainable design (includes reference specifically to Water Lane)

Local Plan (to be read as a whole, with specific reference to the following policies):

- Local Plan Strategy
- AP1 – location and design of development
- AP2 – Priority to previously developed land
- E3 – impact of loss of employment land
- H1 – housing sequential approach
- H2 - Priority to previously developed land
- H6 – affordable housing
- H7 – adaptable housing
- L4 – contribution to play space
- T1 – sustainable transport
- T2 – location of residential development/transport options
- T3 – transport routes
- T10 – car parking
- EN2 – development on/near site of contamination
- EN4 – flood risk
- EN5 – noise
- DG1 – design
- DG2 – energy conservation
- DG4 – residential density, amenity, layout
- DG5 – open space

- DG6 – transport/parking layout
- DG7 – safe and secure development
- KP6 – area-specific guidance for development

4.3 The proposal will also make appropriate reference to the National Planning Policy Framework as revised and the National Design Guide.

5. Resources and Liaison

5.1 The Project Team

The Project Team will comprise of the ECC Team and the Applicant’s Team, as initially defined below. The Project Team will be expanded as appropriate and by agreement. Key ECC officers are listed below in paragraph 5.2; it is recognised that the Council may not hold all relevant specialisms and resources in-house and it is expected that expertise may be required relating to certain specialisms (e.g. viability, elements of Environmental Impact Assessment-related activity) as the project proceeds. Provision of estimates and appointment of consultants shall be arranged by the appropriate party with prior consultation to ensure ongoing transparency through this process and where appropriate to ensure covering the cost of doing so.

Water Lane Masterplan Future Place Advocacy and Strategic Urban Design Support

5.2 [REDACTED] is jointly commissioned under this PPA to provide an advisory and advocacy role primarily facilitating the collaboration between Exeter City Council and the Water Lane Development Company but able to include other partners in discussion as necessary. Jointly contracted by ECC and WLDMC, this is an arrangement which allows for independence and helps enable partnership working through leading both parties through a comprehensive design process.

5.3 This work will include getting an initial understanding of the Water Lane area and its context (“the Future District”); using “Future Place Drivers” to create a profile

for the redevelopment of the area; input to the “Placemaking Framework”; to select and adapt a series of ingredients of the Future Place.

5.4 Exeter City Council (ECC) Team

Name	Position & Role	Contact Details
[Redacted]	Planning Officer/Consultant and PPA lead	[Redacted]
	Assistant Service Lead, Planning Policy	
	Principal Planning Officer, Planning Policy (as substitute for George Marshall as required)	
	Interim Assistant Service Lead – Development Management (Major Projects)	
	City Surveyor	
	Communications Officer	

5.5 The Applicant’s Team:

5.6 The below table includes the core team project team, with further consultants inputting in certain areas where necessary;

Name	Position & Role	Contact Details
[Redacted]	PPA Lead Contact/Planning Agent	[Redacted]
	Applicant’s Lead Contact	
	Architecture (Lead for Nash)	
	[Redacted]	
	Highway (Lead for Stantec)	

Name	Position & Role	Contact Details	
[Redacted]		[Redacted]	
	Utilities Strategy		
	Energy Strategy		
	Public Realm		

5.7 Other relevant organisations

5.8 Whilst ECC is the Local Planning Authority for this development Devon County Council is the Highway Authority, Education Authority and Lead Local Flood Authority. It is therefore appropriate that the Applicant engages the County Council in pre-application discussions on matters relating to the highway network, education provision and flood and water management. All relevant information on how these discussions influences the proposals will be communicated to ECC as soon as practicable. ECC will provide a facilitative role with the County Council as required.

5.9 ECC will take a proactive role engaging with relevant stakeholders and landowners and agencies. This work will be led by the Director of City Development on ECC's behalf.

5.10 Performance Standards

- Communications, be it via email or hard copy correspondence, shall be acknowledged within 5 working days with a suitable response where possible.
- Telephone messages shall be returned within 2 working days of receipt.
- Relevant information including agendas will be circulated by all parties no later than 5 working days prior to a meeting.

- The items for inclusion on a forthcoming meeting agenda will be agreed between the Applicant's Planning Agent and ECC's PPA Lead. Once agreed the Applicant's Planning Agent will circulate meeting agendas, unless otherwise agreed, no later than 3 working days prior to any meeting. ECC's PPA Lead may, with the agreement of the Applicant's Planning Agent, arrange meetings, doing so in accordance with the requirements for agenda circulation etc.
- Unless otherwise agreed, minutes and actions arising from meetings shall be circulated by the organiser and agreed no later than 5 working days after the meeting.
- If requested by the Applicant or Planning Agent, ECC shall provide informal feedback on information presented at a meeting within 5 working days from that meeting.
- Formal feedback from pre-application or working group meetings will be provided within 10 working days from that meeting.

5.11 **Meetings**

- Meetings will be attended by the Project Team unless specific attendance is not required due to meeting topics.
- The applicant's Planning Agent, in conjunction with the ECC PPA Lead, will act as PPA Project Managers and will convene meetings, invite appropriate attendees, organise/agree agendas and produce minutes to be agreed by the Project Team as set out in paragraph 5.7.
- Project Team meetings will be held at the times set out in the Project Programme (unless otherwise agreed or cancelled).
- By agreement meetings with other key organisations, including for example Devon County Council, may be arranged to ensure consistency and delivery of the planning objectives within this PPA.

- As part of the governance of the PPA there will be strategic engagement between the Applicant's PPA Lead and the Director of City Development.

5.13 **Availability of People and Resources**

The parties to this agreement will endeavour to make Project Team members available to facilitate meetings within 10 working days from a formal written request, unless otherwise agreed. The parties will also share with each other project tools (such as traffic models, visualisation models and development viability information) subject to protecting commercial confidentiality and Freedom of Information considerations.

5.14 **Confidentiality**

The Council has a duty to respond to requests for information under the Freedom of Information Act 2000 (Fol) and the Environmental Information Regulations 2004, and that commercially sensitive information, or which would breach confidentiality, can be exempt. Pre-application discussions will include commercially confidential information and will therefore be undertaken on a private and confidential basis unless otherwise agreed. Confidentiality protocols will be agreed and applied to specific issues and/or information as they emerge.

5.15 In the event that the City Council receives an Fol request in respect of the planning application, the Council shall follow its standard procedures and;

- (a) notify the Applicant as soon as reasonably practicable;
- (b) shall not formally respond to the Fol request until such time as the Applicant has been given a reasonable opportunity to make representations on the request; and
- (c) the City Council shall have due and proper regard to any representations made by the Applicant.

5.16 Costs

The Applicant commits to cover:

- the relevant planning application fee(s);
- ECC's reasonable legal costs incurred associated with the preparation of any S106 Agreement. Details of the Applicant's Solicitor and title documentation shall be provided upon submission of the application to enable completion of the S106 within the project programme (or as may be amended by agreement);
- By prior agreement, the reasonable costs which may be incurred with the appointment of external consultants (such as Independent Viability Consultants) to progress the PPA, to be agreed by the Applicant on a case by case basis;
- [REDACTED]
- By prior agreement, ECC's reasonable costs incurred to staff pre-application and post-application submission meetings with officers, including any external consultants required (in addition to those included within this agreement);
- The costs to be covered by the Applicant includes the cost of employing ECC's PPA Lead, [REDACTED]. The sum of [REDACTED] (excludes VAT) for the pre-application stages shall be paid within 15 working days of the signing of this agreement. The sum of [REDACTED] (excludes VAT) for post submission work shall be paid within 15 days of submission of a planning application. If further expenditure/time is required to deliver the principles and planning objectives of this PPA this is to be agreed between parties;
- All other costs are to be agreed between the parties prior to expenditure;
- The Cost will specifically cover the following elements;

- ◆ *Advice and support to ensure the proposed submission accords with the principles, vision, aims, and objectives for development in this location*
 - ◆ *Professional responses to the evolving proposals leading up to formal submission*
 - ◆ *Strategic engagement with stakeholders and other agencies as required*
 - ◆ *Advice on consultation and engagement with stakeholders*
 - ◆ *Proactive advice on how to address issues that may arise during the processing of the planning application(s)*
 - ◆ *Signposting further advice if required and, if appropriate, facilitating engagement*
 - ◆ *Provision of as much clarity as possible on potential conditions and obligations*
 - ◆ *Ensuring the submission meets the Council's validation requirements*
- By prior agreement, ECC's reasonable costs of specific resource(s) to act as, or provide assistance to, the Case Officer during the determination of the formal application to ensure its timely and efficient processing;
 - By prior agreement, ECC's reasonable costs post-decision to deliver timely responses to discharging conditions and, where applicable, Section 106 obligations. Early discussion of these matters will aim to limit exposure to additional expenditure.

ECC Officers, and any agreed consultants active under this PPA, will record their time spent on the project and will in a timely manner provide the nominated contact on the Applicant's Team a sheet of the hours spent and accumulated cost as part of a monthly invoice/statement. These invoices being raised against a Purchase Order to be issued by the Applicant.

6. PPA Programme

- 6.1 The PPA Programme is devised to provide a realistic timeframe for the preparation, submission and determination of the planning application.
- 6.2 It is anticipated that, subject to all relevant works having been completed, a 16-week timeframe is appropriate for consideration of the planning application and the issuing of the planning decision. This is subject to the required democratic processes within ECC as local planning authority and other key stakeholders/consultees.
- 6.3 Within this period, meetings will be arranged as and when considered necessary by agreement with proposed appropriate meeting dates set out within the Project Programme at Appendix 3.
- 6.4 If there is a delay in the application the Project Team will review whether the Programme is still realistic or whether the timeframe need to be revised. Any revisions to the Planning Performance Agreement determination timeframe shall be agreed in writing between the Applicant and ECC.
- 6.5 Monitoring delivery of the PPA and updating as required will take place in the PPA meetings.

7. Communications, Marketing and Engagement

- 7.1 It is important there is a coordinated and agreed communications strategy in place throughout the delivery of the actions in the PPA.
- 7.2 Any communications will be considered and agreed between ECC and the Applicant's Team prior to implementation.
- 7.3 The Council's appointed Communications Officer will be the key point of contact from ECC's team; the Applicant's appointed communications/engagement consultants will work with ECC's representative to ensure consistent and appropriate means of engagement throughout the process.

8. AGREEMENT

8.1 Exeter City Council and the Applicant hereby agree to the content of this Planning Performance Agreement.

Exeter City Council

Name: [Redacted] _____

Signature: [Redacted] _____

Position: Director of City Development _____

On Behalf Of: Exeter City Council _____

13 May 2022

Date: _____

Applicant

Name: [Redacted] _____

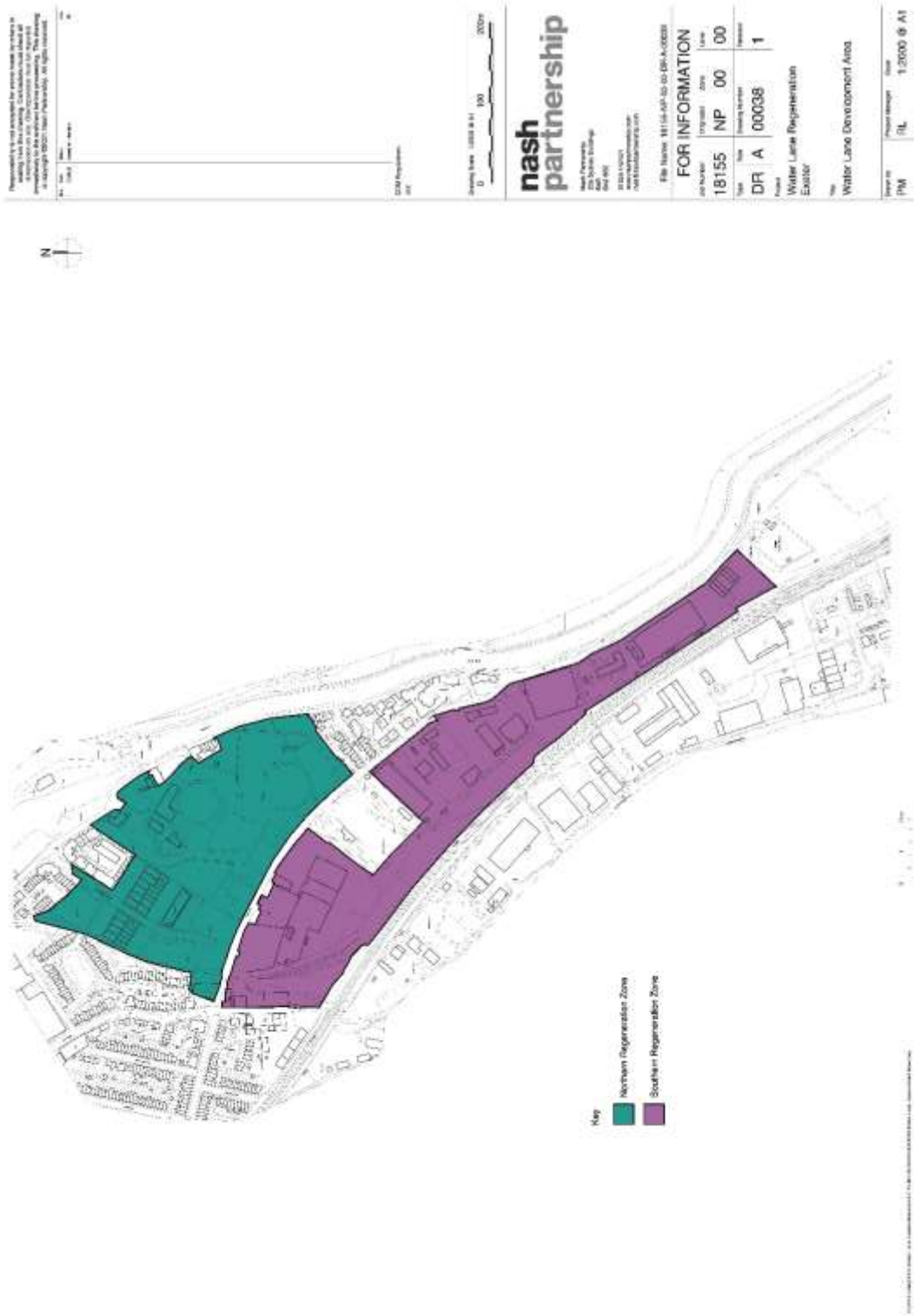
Signature: _____

Position: Project Director _____

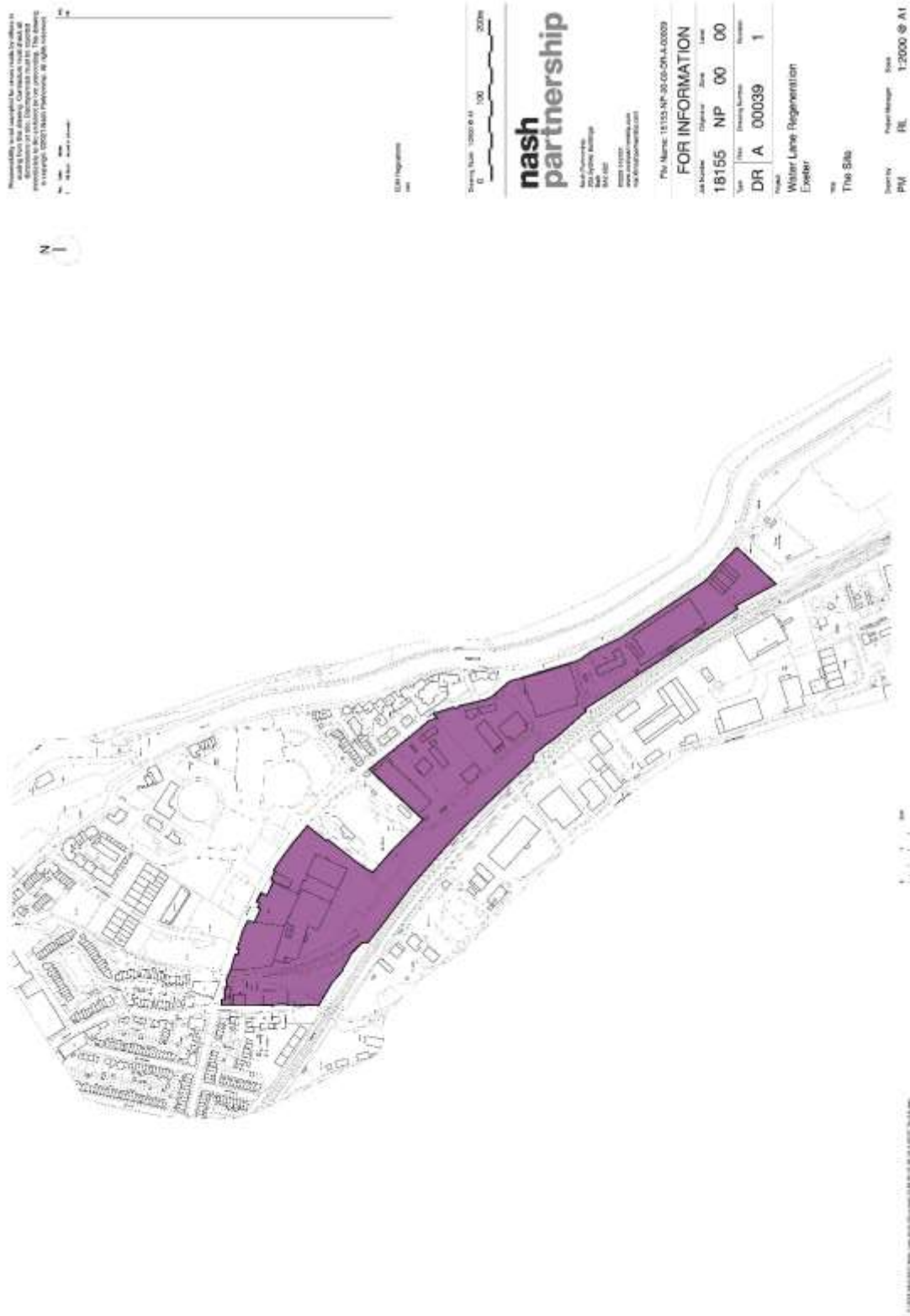
On Behalf Of: Cildara (Exeter) Group _____

Date: _____

Appendix 1: Plan 1 – Water Lane Development Area



Appendix 2: Plan 2 – The Site



Appendix 3 – Indicative Project Programme

ECC and the Applicant shall work to ensure that the proposal is progressed in accordance with the Programme set out below (unless a variation to the Programme is agreed in writing by both the Applicant and ECC). The pre application stage, including EIA Scoping work, may last up to 21/11/22 although this could be extended depending on progress of key elements of work.

PPA Programme

Activity	Date w/c
Inception/PPA set-up meeting	08/11/21
Pre-app Meeting 1	07/02/22
Design Review Panel 1	07/03/22
Pre-app Meeting 2	25/04/22
Strategic Review Meeting No 1	25/05/22
EIA Screening Request	30/05/22
Councillor and key stakeholder briefing	20/06/22
Public Consultation	20/06/22
EIA Screening Opinion	27/06/22
Pre-app Meeting 3	04/07/22
Design Review Panel session 2	18/07/22
Strategic Review Meeting No 2	25/07/22
Commence Section 106 Review	15/08/22
Strategic Review Meeting No 3	22/08/22
Pre-app meeting 4	05/09/22
Councillor and key stakeholder briefing	19/09/22
Strategic Review Meeting No 4	26/09/22
Public Consultation	03/10/22
Pre-app Meeting 5 – incl draft S106 HoTs	24/10/22
Pre-app Meeting 6 – S106 focus.	21/11/22
Submit planning application.	19/12/22

Application Determination Programme

Week(s)	Date - W/C	Formal application phase of programme
1 - 2	19/12/22	<p>Applicant to submit the planning application, and supporting documentation will have regard to pre-application advice provided under this PPA.</p> <p>ECC to register and validate the application; and</p> <p>a) send out consultation letters / advertising the application; or</p> <p>b) inform the Applicant if application is invalid, providing reasonable time to rectify any identified issues that require addressing.</p> <p>Financial Viability - if required (and not already undertaken at the pre-application stage) ECC will obtain a quote(s) from independent viability consultants and send to applicant (if received in time) for agreement including agreement to cover the costs of that assessment.</p> <p>Design Review - if identified and agreed it is required, the Applicant Team will obtain quote(s) from appropriate parties and send to applicant for agreement, including agreement to cover the costs of that assessment.</p>
2-5	<i>Subject to submission of a valid application</i>	<p>Statutory consultation period. Responses will be uploaded to the website.</p> <p>ECC, led by their nominated Case Officer, to assess application and inform the Applicant of significant consultee responses (particularly if they require further information or clarification) in order to assist with the processing of the application.</p> <p>If necessary a viability assessment including initial meeting with assessor (if necessary). Obtain any request for additional information and agree reporting timescales based on information provision (from the applicant).</p>
6		<p>End of Statutory consultation period - ECC to confirm any outstanding issues to be addressed (objectors comments, statutory consultees, etc).</p>

Week(s)	Date - W/C	Formal application phase of programme
		<p>Project Team Meeting may be held if deemed necessary to consider and address responses in the consultation period.</p> <p>Draft S106 Heads of Terms to be discussed (if required or there are any changes since pre-application advice discussions on this) and agreed if possible. If agreed ECC may instruct legal teams to prepare the Section 106 on the basis that any work may be abortive if the planning decision is not positive.</p> <p>Ongoing viability assessment (throughout the timeframe).</p>
7-8		<p>Applicant to address any outstanding issues/prepare amended plans/documents (if necessary), and formally agreeing an extension of time.</p> <p>Depending on the nature of amendments required these may be subject to further consultation, which may impact the following timeframe.</p>
9	<i>Note: if re-consultation is required this will increase the programme length by 2 weeks</i>	<p>Subject to positive resolution of matters above, ECC to confirm any final issues to be addressed.</p> <p>Draft S106 Heads of Terms to be agreed subject to further amendments required. If not already initiated, legal teams instructed to prepare draft S106.</p>
10-12		<p>Preparation of report(s) to Planning Committee.</p> <p>S106 Heads of Terms to be agreed with case officer and Legal (in the understanding these are subject to change and final agreement at/after Planning Committee).</p> <p>Receipt of any final amended plans additional information from the applicant.</p> <p>Discuss planning conditions, Case Officer to provide draft conditions to applicant for comment.</p>
13		Review of draft Planning Committee Report
14		Publication of Planning Committee Report
15	<i>The week the Committee meeting</i>	Planning Committee meeting

Week(s)	Date - W/C	Formal application phase of programme
	<i>falls on will depend on the Committee timetable and submission date</i>	S106 drafting
14-17		S106 drafting / completion
18		ECC issue planning decision notice (subject to the satisfactory completion of Section 106 Agreement in the event that planning permission is approved)

Appendix 4 – Application Documents

The Planning Application shall be accompanied by the following documents. It is intended that the application will be submitted via the Planning Portal.

[The list provides an informed indication, based upon the information provided at the time of producing the PPA, ECC’s validation requirements and the Town and Country Planning (Development Management Procedure) (England) Order 2015, of the documents/plans required however it is subject to change and will be influenced by matters covered in the pre application stage and will be subject to final agreement through this process].

FOR APPROVAL
Site Location Plan
Proposed Access Road and Junction
Access and Servicing Parameter Plan
Building Height Parameter Plan
Disposition of Uses Parameter Plan
Demolition and Retention Parameter Plan
Public Realm Parameter Plan
Green and Blue Infrastructure Parameter Plan
Phasing Plan
Travel Plan
Arboricultural Impact Assessment / Method Statement / Tree Protection Plan
Sustainability Strategy (incl. waste, energy and low carbon)
Biodiversity Net Gain Assessment and Strategy
Drainage Strategy
Noise/Vibration Assessment and Attenuation Strategy
Utilities Survey and Strategy
Lighting Strategy – depending on ecologist advice
S106 HoTs

ENDS