

Date: 19 March 2013
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To:
Members of the Overview and Scrutiny Committee (Mike Allen, Peter Bowden, Peter Burrows, Derek Button, David Chapman, Deborah Custance Baker, Vivien Duval Steer, Roger Giles, Tony Howard, Stuart Hughes, John Humphreys, Sheila Kerridge, David Key, John O'Leary, Brenda Taylor, Graham Troman, Tim Wood, Eileen Wragg, Claire Wright, Tom Wright)
Portfolio Holders
Chief Executive; Deputy Chief Executives

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Overview and Scrutiny Committee

Thursday 28 March 2013 at 6.30pm

Council Chamber, Knowle, Sidmouth

Members of the Council who do not sit on this Committee are welcome to attend as observers. Members of the public are welcome to attend this meeting.

- There is a period of 15 minutes at the beginning of the meeting to allow members of the public to ask questions.
- In addition, the public may speak on items listed on the agenda. After a report has been introduced, the Chairman (Leader of the Council) will ask if any member of the public wishes to speak and/or ask questions.
- All individual contributions will be limited to a period of 3 minutes – where there is an interest group of objectors or supporters, a spokesperson should be appointed to speak on behalf of the group.
- The Chairman has the right and discretion to control questions to avoid disruption, repetition and to make best use of the meeting time.

Should anyone have any special needs or require any reasonable adjustments to assist them in making individual contributions, please contact Debbie Meakin (contact details at top of page). A hearing loop system will be in operation in the Council Chamber. Councillors and members of the public are reminded to switch off mobile phones during the meeting.

AGENDA

Page/s

1. **Public question time** – standard agenda item (15 minutes)
Members of the public are invited to put questions to the Committee through the Chairman. Councillors also have the opportunity to ask questions of the Leader and/or Portfolio Holders during this time slot whilst giving priority at this part of the agenda to members of the public
2. To confirm the minutes of the meeting of the Overview and Scrutiny Committee held on 28 February 2013. 4 - 7
3. To receive any apologies for absence.

4. To receive any declarations of interest relating to items on the agenda.
5. To consider any items which, in the opinion of the Chairman, should be dealt with as matters of urgency because of special circumstances. (Note: Councillors please notify the Chief Executive in advance of the meeting if you wish to raise a matter under this item, who will then consult the Chairman).
6. To agree any items to be dealt with after the public (including the press) have been excluded. There are **no** items that the officers recommend should be dealt with in this way.
7. Decisions made by the Cabinet called in by Members for scrutiny in accordance with the Overview Procedure Rules under Part 4.5 of the Constitution. There are **no** items identified.
8. **Cabinet Agenda**
Members are asked to notify in advance the Chairman or the Democratic Services Officer any Cabinet items they wish to debate. Members to debate any issues of concern on the current Cabinet agenda in order for the Chairman to feed this back to the Cabinet at its meeting on the 3 April 2013. The website link to the Cabinet agenda will be e-mailed to Members on 21 March 2013. Please refer to Cabinet agenda
9. **Referral from Business Task and Finish Forum**
 The Forum has resolved that the Overview and Scrutiny Committee be requested to consider the scope of the Business TAFF with particular reference to the inclusion of consideration of planning issues.
- The minutes from the Forum are set out in the agenda papers:
 11 December 2012 (includes agreed scope) 8 – 13
 12 March 2013 14 – 20
10. **Five Year Land Supply** 21 - 72
 Councillor Mark Williamson, Chairman of Development Management Committee, is invited to attend.
- Members are asked to consider the covering report, and report made to Development Management Committee on 5 February 2013. Three cases decided by Planning Inspectors are included to demonstrate other valid planning reasons for consideration in determining applications for a number of houses.
11. **Portfolio Holder Update – Strategic Development & Partnerships**
 Update from Councillor Andrew Moulding, Portfolio Holder for Strategic Development and Partnerships, on his recent work and forthcoming plans.
12. **Forward Plan** 73
 Members are asked to note the Forward Plan.

Decision making and equality duties

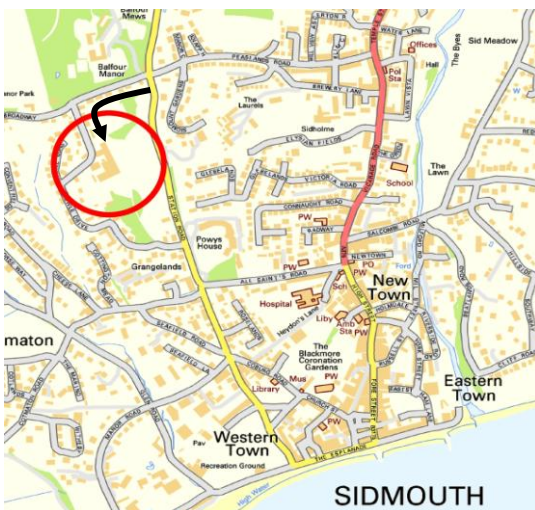
The Council will give due regard under the Equality Act 2010 to the equality impact of its decisions.

- An appropriate level of analysis of equality issues, assessment of equalities impact and any mitigation and/or monitoring of impact will be addressed in committee reports.
- Consultation on major policy changes will take place in line with any legal requirements and with what is appropriate and fair for the decisions being taken.
- Members will be expected to give reasons for decisions which demonstrate they have addressed equality issues.

Members and co-opted members remember!

- You must declare the nature of any disclosable pecuniary interests. [Under the Localism Act 2011, this means the interests of your spouse, or civil partner, a person with whom you are living with as husband and wife or a person with whom you are living as if you are civil partners]. You must also disclose any personal interest.
- You must disclose your interest in an item whenever it becomes apparent that you have an interest in the business being considered.
Make sure you say what your interest is as this has to be included in the minutes. [For example, 'I have a disclosable pecuniary interest because this planning application is made by my husband's employer'.]
- If your interest is a disclosable pecuniary interest you cannot participate in the discussion, cannot vote and must leave the room unless you have obtained a dispensation from the Council's Monitoring Officer or Standards Committee.

Getting to the Meeting – for the benefit of visitors



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From Exeter – 52A, 52B; From Honiton – 52B

From Seaton – 52A; From Ottery St Mary – 379, 387

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The Committee Suite has a separate entrance to the main building, located at the end of the visitor and Councillor car park. The rooms are at ground level and easily accessible; there is also a toilet for disabled users.

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EAST DEVON DISTRICT COUNCIL
Minutes of a Meeting of the
Overview and Scrutiny Committee held
at Knowle, Sidmouth on 28 February 2013

Present: Stuart Hughes
John Humphreys
Mike Allen
Peter Bowden
Graham Brown
Peter Burrows
David Chapman
Deborah Custance Baker
Vivien Duval Steer
Tony Howard

Sheila Kerridge
David Key
John O’Leary
Brenda Taylor
Graham Troman
Tim Wood
Tom Wright

Officers:
Jamie Buckley, Community Engagement and Funding Officer
Karen Jenkins, Corporate Organisational Development Manager
Debbie Meakin, Democratic Services Officer

Also Present **Councillors:**

Ray Bloxham
David Cox
Christine Drew
Martin Gammell

Peter Halse
Ken Potter
Pauline Stott
Phil Twiss

Apologies: **Committee Members:** **Councillors:**

Derek Button
Roger Giles
Eileen Wragg
Claire Wright

David Atkins
Jill Elson
Steph Jones
Andrew Moulding
Paul Diviani

The meeting started at 6:30pm and ended 7.35pm.

*57 **Public Question Time**
There were no questions from members of the public.

*58 **Minutes**
The minutes of the meetings of the Overview and Scrutiny Committee held on 24 January 2013 were confirmed and signed as a true record.

*59 **Declarations of Interest**

Councillor/ Officer	Minute number	Type of interest	Nature of interest
Stuart Hughes	63	Personal	Cabinet Member for Highways at Devon County Council

*60 **Post Office Update**

The Chairman welcomed Councillor Ken Potter, Member Champion for Rural Communities (including Post Offices) to the meeting.

Councillor Potter updated the Committee on the latest in the ongoing changes in the Post Office Network. He highlighted a recent press article in the Western Morning News about post offices at risk in the South West.

A recent article in postmaster related publications had also highlighted a shift in view to allow post offices to diversify their business offer, including a look at the option of a Post Office Bank – a topic repeatedly lobbied for by Councillor Potter over recent years. The Committee welcomed this shift in view.

Councillor Potter has been working closely with the Local Government Association about the future of the Post Office Network, particularly looking at how the existing business of the Post Office could survive in the current economic climate. There had been a recent change of personnel in the Programme Team, but Councillor Potter had made contact with the new Senior Advisor to continue in this work.

Post Office Limited were working on securing interest in taking on the Sidmouth Post Office but had no further information to share with local Ward Members at this time; however it was important to note that the existing post offices would continue to operate until a suitable replacement operative was found and put into place. Laura Tarling, Senior Stakeholder Manager for the South West region, would be meeting with local Ward Members once suitable replacement arrangements were further progressed, to ensure their input was taken into consideration.

The Chairman thanked the Member Champion for Rural Communities for his continued efforts and looked forward to future updates.

61 **Sustainable Communities Act**

The Chairman welcomed Jamie Buckley, Community Engagement and Funding Officer. Her report outlined the Government decision to continue with the Sustainable Communities Act and the implications for the Council if they agreed to take part. The Committee heard of the number of applications the last time the process was run back in 2009.

Members questioned the merits of accepting and processing proposals under the act, including:

- Are any other local authorities in Devon taking part? No other Devon authorities were taking part that the Community Engagement and Funding Officer was aware of, mainly on the grounds of the time a resources needed measured against the chance of a successful proposal;
- Can local parishes put in a proposal? Any individual can submit a proposal, which would then be checked for eligibility before going onto a panel for consideration. If Members wanted the Council to take part in this legislation, she would set up the facility to submit proposals online with her as point of enquiry;
- Does a successful proposal mean more money for the authority? The legislation looks at providing another means of handling existing funds, for example collecting the money locally and keeping it to spend locally rather than going via a government department, or devolving a responsibility down to a local authority level. It would not raise additional funding;

61 **Sustainable Communities Act (continued)**

- What would the cost of taking part be to the Council? Resources from the Engagement and Funding Officer in terms of dealing with queries and submitted proposals, met from existing budget.

The Committee voted, with an overall majority that the Council should take part and assist any individuals wishing to submit proposals.

RECOMMENDED that the Council participates in gathering in and submitting further proposals under the Sustainable Communities Act.

*62 **Quarterly Monitoring of Performance – 3rd Quarter 2012/13**

No specific issues had been highlighted in the report for the third quarter that needed action. On the performance monitoring issues, Members discussed the balance of raising visitor numbers to assets such as the Wetlands against the cost of marketing.

The Committee took the opportunity to discuss the format of the report, which had been extensively reviewed and refined by the Committee over the past two years. They discussed:

- The value of no colour indication for the status of “normal”. The Corporate Development Management Manager explained that the status of normal indicated that work was progressing as expected, often used for long term objectives; with the green “Achieved” status showing clearly that an objective had been reached. Members felt that the “normal” status should be included in the traffic light system and be referred to as “on schedule”;
- No clear performance indicators were set out against the council promise of working in an outstanding place, whereas all other promises had indicators below them;

Other Members felt that the report had the desired outcome of showing exactly those issues that needed attention and did not wish to see further revision of the format. Councillor Graham Brown highlighted the need for more focus on tourism and informed the Committee on his work in visiting local Tourist Information Centres, which he would report back on in due course.

*63 **Forward Plan**

Members noted the forward plan with the addition of a report from the Democratic Services Officer on the role of the Committee on health issues, as alluded to in the Cabinet report on Health and Social Care reforms.

Councillor Roger Giles submitted a request to look at Police support to Community Speed Watch (CSW) for 20mph zones by e-mail. This was read out to the Committee, along with a response from the Police on the legality of enforcing breaches of 20mph zones. Councillors highlighted some local examples of the Police continuing to support CSW in their local area and were concerned in examination of an area of responsibility that fell to the County Council as Highway Authority.

*63 **Forward Plan (continued)**

They agreed for the Democratic Services Officer to clarify the legal position of 20mph zones with the County Council and report back to the Committee in due course.

Chairman Date

Notes of a Meeting of the Business Task and Finish Forum held at Knowle, Sidmouth on 11 December 2012

Present:

Councillors:

Graham Troman
(Chairman)
Mike Allen

Vivian Duval-Steer
Claire Wright

Also Present

Councillors:

David Cox
Graham Godbeer
Helen Parr

Officers:

Mark Williams – Chief Executive
Nigel Harrison – Economic Development Manager
Chris Lane – Democratic Services Officer

Apologies

Councillors:

Peter Burrows
Steve Gazzard

Officers:

Richard Cohen

The meeting started at 6.00pm and ended at 8.00pm.

1. Public Questions

The Chairman, Councillor Graham Troman, welcomed the public present and invited questions.

Barry Curwen, Sidmouth Resident, had spoken at Council on 5 December 2012 when he asked for a risk report and detailed cost breakdown in respect of the relocation proposal. He said that he had yet to receive a satisfactory reply to his request. He asked the Council to be more open in its decision making process.

Alan Durrant, Chairman of the Sid Vale Association stated that he had spoken to many people in Sidmouth about the Council's plans to relocate its headquarters. He considered that many residents were against the move and the Council needed to regain the support of the electorate in Sidmouth. He requested that the scope of the Forum was made to more clearly represent the discussion held at the Overview & Scrutiny Committee on 27 September 2012. He considered that the Council should be more open and honest.

Paul Newman's question related to the scope of the TAFF. He mentioned the background of the Chairman and Vice Chairman of the East Devon Business Forum and was concerned that the Business Forum had been used in the past as a lobby group to help get planning applications passed. The TAFF needed to investigate whether the Business Forum was a trustworthy organisation.

Tony Green a Sidmouth Resident stated that he had produced a paper on a review of the EDBF minutes. He was concerned that the TAFF's scope excluded 2 of the key concerns, regarding the Local Plan and planning permissions. In his view the EDBF had undue influence over planning policy. He also commented on the

confused legal state of EDBF which he felt had risked compromising both Councillors and Officers. This led to a number of conflicting interests. He felt that the key objective of EDBF was to lobby the Council on behalf of business. The Council needed to clarify the status of EDBF. Tony Green had two questions: The first was, if EDBF was an independent lobby group then why were Councillors and Officers working for it? Secondly, if EDBF was part of the Council why was the Council supporting a lobby group?

Mr G Nicholson, Sidmouth Resident, asked what was the mission statement of the TAFF? The Chairman informed him that this would be determined when the scope had been agreed.

Steve Kendall Tory, Sidmouth Chamber of Commerce, welcomed the opportunity to look into the activities of EDBF. EDBF’s attendance and minutes showed its activities centred on development. The TAFF should show how useful EDBF was to business in East Devon. Many businesses in East Devon contained less than 5 people and they were not permitted join EDBF. He was concerned that the scope of the TAFF was too narrow and excluded topics such as planning which should be considered. He believed that EDBF had an undue influence on EDDC planning policy.

2. Chairman Opening Remarks

The Chairman welcomed everyone to the meeting and set out his aims for the Forum. He had asked the Forum to be set up due to criticisms of how East Devon Business Forum operated and wanted the Forum to consider not only business in the District but also the overall effectiveness of East Devon Business Forum (EDBF). He expressed disappointment that two members of the TAFF had not attended that meeting.

3 Declarations of Interest

Councillor/ Officer	Type of interest	Nature of interest
Councillor Graham Troman	Personal	Sidmouth business owner and Taylor Catering Foods was a supplier to that business.
Councillor Vivian Duval-Steer	Personal	Member of the Development Management Committee

4 Scoping report

The Forum debated the scope, outlining specific areas to explore and those areas not covered by the review.

In response to a request from the Chairman, the Chief Executive explained the reasons why the Local Plan and planning issues were not appropriate to be considered by the TAFF. Planning applications, the application of planning policy and the Local Plan were matters considered and decided upon by the Development Management (Planning) Committee, which was often termed a quasi judicial body.

4 Scoping report (continued)

Decisions of the Planning Committee in these areas were final in the sense that they could only be challenged in three ways; by a Planning Inspector, legal challenge and through the Independent Ombudsman; in other words, oversight of its decisions were by an independent body. Consideration of such matters was not within the remit of the Overview & Scrutiny Committee or this TAFF. This TAFF nor its members could properly be considered independent and this constrained any ability to look into such areas.

Councillor Claire Wright expressed surprise to see that planning policy was not contained within the scope of the TAFF. The TAFF had been set up in response to public concern about what impact EDBF had on the Local Plan. She emphasised that it was important to get the scope of the TAFF right from the beginning.

The Chief Executive confirmed that if the complaints about EDBF related to matters to do with the Local Plan which was now on deposit, then the Independent Inspector should look at these matters; the TAFF was not independent nor quasi-judicial. He confirmed that all residents of East Devon had a right to influence the Local Plan through comments to the Independent Inspector. If any members of the public had any evidence of maladministration relating to planning matters then they should complain to the Ombudsman.

Members noted that the Overview and Scrutiny Committee had asked for a report in 2013 on the Local Plan procedure; the TAFF did not have the resources to undertake such an investigation. The key message was that there was an Independent Inspector who was currently investigating Local Plan policy matters. EDBF had no statutory influence on EDDC at all and was merely one of many bodies that EDDC engaged with to obtain their views on business. It had been set up by EDDC and had the status of a joint body, with two representatives from the Council appointed at Annual Council each year

Broadly, the issues for discussion were how EDDC engaged with business and the role historically and currently played by the EDBF in facilitating that link.

RESOLVED The scoping report be agreed as below:

Broad topic area	To produce an in-depth report on the East Devon Business Forum to include all business engagement and its relationship with the Council.
Specific areas to explore within topic area	<ol style="list-style-type: none"> 1. Membership and objectives <ul style="list-style-type: none"> - constitution - EDBF membership, attendance and representation of businesses - objectives of EDBF and what mechanisms are in place to assess success/failure 2. EDBF relationship with EDDC and other organisations <ul style="list-style-type: none"> - legal status of EDBF

	<ul style="list-style-type: none"> - is EDBF a lobby group? - are there potential for conflicts of interest for councillors and officers? - public perception, transparency and reputation <p>3. EDBF funding</p> <ul style="list-style-type: none"> - explore costs of EDBF, including officer time - what other groups does EDDC fund? <p>4. The way forward</p> <ul style="list-style-type: none"> - how other councils engage with business - other examples of business forums - see 'desired outcomes of the review'. <p>5. Systems by which we can improve communications with business by IT systems.</p>
Areas NOT covered by review	<p>Individual planning applications Planning policy East Devon Local Plan Individual contracts between the council and contractors or suppliers</p>
Desired outcomes of the review	<p>Improve communication between business and the Council Consider if the EDBF should be replaced and if so, what with? Suggestions to the EDBF on how membership can be increased. Suggestions to the EDBF on changes to their constitution. Suggestions to the EDBF on topics for debate to help inform the work of the Council relating to its priority of "Working in this outstanding place". Recommendations on a positive and transparent way forward for EDDC to engage with business, that has the confidence of East Devon businesses and residents.</p>
Who should be consulted to obtain evidence (eg ward member, officers, stakeholders)	<p>East Devon Business Forum Chairman East Devon Business Forum Vice Chairman EDDC Economic development manager/EDBF Honorary Secretary Chambers of Commerce representatives Local Enterprise Partnership Educational Institutions Blackdown Hills Business Association Federation of Small Businesses EDDC Monitoring Officer EDDC leader Representative from Mid Devon Business Forum District Auditor Invited Members of the public NFU Malcolm Sherry Tourism representatives Representatives of the Voluntary Sector</p>
What evidence already exists (consultation, good)	<p>Mid Devon Business Forum Other Business Forums nationally</p>

practice examples)	
What experts are needed to help with the review	Nigel Harrison, Economic Development Manager
What other resources are needed	
Undertaken by the committee or is a TAFF required	Task and Finish Forum comprising: Councillors Graham Troman, Mike Allen, Vivien Duval Steer, Claire Wright, Steve Gazzard and Peter Burrows
Timescale including start date	First meeting: 11 December 2012 4-5 meetings (preferably once a month)
Who are the recommendations being reported to	Overview and Scrutiny Committee before going to Cabinet/Council.

5. Council Plan

Members noted the Council's Plan 2012/16 which had been included in the agenda papers. It was particularly appropriate that the TAFF considered the section on "Working in this Outstanding Place".

6. Background information on the East Devon Business Forum

Nigel Harrison, Economic Development Manager, presented the report giving background information on the East Devon Business Forum (EDBF). He emphasised that when it was set up the EDBF had made strenuous efforts to not compete for membership with the Chambers of Commerce in East Devon. The agenda for meetings was driven by the businesses that attended and facilitated by EDDC staff.

The Chairman requested that a copy of the EDBF Constitution be included on the agenda for the next meeting. A copy of which was available on the EDDC website.

During discussion the following points were noted:

- The importance of EDBF having transparent arrangements in place and the separation of lobbying from activities, other than through the usual channels
- A concern expressed that some of the allegations made against EDBF and its leading members were unsubstantiated and could be libellous;
- The importance of good integration between EDDC and business;
- The EDBF's restrictions on membership existed because they did not wish to create a membership body that competed with local Chambers of Commerce;

- RESOLVED**
1. That an item on the EDBF Constitution be included as an item on the next TAFF agenda;
 2. That Nigel Harrison, Economic Development Manager send a questionnaire to businesses and Chambers of Commerce in East Devon asking what benefit EDBF was to business and if they did not come why not.

7. Case Files of 5 different examples of Business in the Country

Members noted the case files of 5 different examples of business in the country provided on the agenda.

RESOLVED That Nigel Harrison, Economic Development Manager be requested to ask the Local Government Association about examples it may have of business networks.

8. Business Forum Mid Devon Constitution and Background

Members considered the constitution and background of Business Forum Mid Devon. It was considered appropriate that members of the TAFF should attend a meeting of this Business Forum to see how it operated. It would be helpful to compare the constitution of this Business Forum with the EDBF. It was noted that membership was open to individuals and charged an annual fee for membership.

RESOLVED That members of the TAFF attend a meeting of the Business Forum Mid Devon and also compare the EDBF and BFMD Constitutions;

9. Future Meetings

The proposed date for the next meeting was agreed as:

23 January 2013 at 6.00pm in the Council Chamber

Notes of a Meeting of the Business Task and Finish Forum held at Knowle, Sidmouth on 12 March 2013

Present:

Councillors:

Graham Troman
(Chairman)
Mike Allen

Peter Burrows
Steve Gazzard
Claire Wright

Also Present

Councillors:

David Cox
Martin Gammell
Graham Godbeer
Mike Howe
Douglas Hull
Tony Howard
Ian Thomas

Officers:

Mark Williams – Chief Executive
Chris Lane – Democratic Services Officer

Chamber of Commerce representatives:

Val Baker – Blackdown Hills Business Association
Greg Page-Turner - East Devon Federation of Small Business
Colin Wright – Honiton Chamber of Commerce
Steve Kendall Tory – Sidmouth Chamber of Commerce
Ray Ambrose – Budleigh in Business
John Thorogood - Exmouth Chamber of Commerce
Councillor Steve Hall – Budleigh Salterton Chamber of Commerce
Ian Tate - Budleigh Salterton Chamber of Commerce

Apologies

Councillors:

Vivien Duval-Steer

Officers:

Nigel Harrison – Economic Development Manager

The meeting started at 6.00pm and ended at 8.20pm.

1. Public Questions

The Chairman, Councillor Graham Troman, welcomed the public present and invited questions.

Steve Kendall Tory, Sidmouth Chamber of Commerce, commented on the revelations in the Telegraph yesterday concerning Councillor Graham Brown. He found it distasteful how some had chosen to distance themselves from these events and had chosen to take the moral high ground and portray themselves as above suspicion. He referred to Councillor Graham Brown's past.

He was concerned that the public were expected to believe that Councillors and senior officers were unaware of Councillor Brown's activities. To state there was no conflict of interest between his business activities and his council work was wrong. He acknowledged that there were some genuine businesses that attended the East Devon Business Forum, but that these did not attend regularly.

Jeremy Woodward, Sidmouth Resident, was concerned about the limited scope of the TAFF. He considered it correct that the Chief Executive advised that the TAFF should not consider individual planning applications, but should be allowed to consider wider planning matters. He then made a number of points which he asked the Chief Executive to address, these included:

1. that the Chief Executive had said that there were issues constraining the TAFF, but that it had been set up to investigate the East Devon Business Forum.
2. that Scrutiny had been set up to consider public concerns.
3. that issues under consideration would not be taken up by the Ombudsman or Local Plan Inspector.
4. EDDC's Constitution allowed the Scrutiny Committee to investigate any policy issue.
5. EDDC's Constitution was based on the Local Government Act 2008 and also Centre for Public Scrutiny's guidance which emphasised the role of scrutiny in ensuring impartial investigation.
6. Many Councils had set up TAFFs to consider policy issues and so had EDDC in the past.

Tony Green, member of the East Devon Alliance, said that the revelations in the Telegraph had been a sad day for East Devon. Many people would see that all they needed to do to get planning permission in East Devon was to hand over a sum of money. All of the events that had been brought to the attention by the Telegraph had been happening under the watch of the Chief Executive. He reiterated that the East Devon Business Forum was a minefield of public interests and that the Chief Executive had tried to ignore all of the concerns that he and Save Our Sidmouth had raised and had manipulated the agenda and minutes. Tony Green also questioned the validity of the legal advice given to the TAFF. He demanded that the Chief Executive should resign.

Barry Curwen, Sidmouth Resident, reported that he had written to Hugo Swire MP in June 2012 regarding the serious problems with the way the Local Plan Enquiry was undertaken. Hugo Swire had then written to Mark Williams and had received a reply in August 2012. The reply had not been satisfactory and had indicated that there was no evidence that the East Devon Business Forum had influenced planning decisions. Barry Curwen believed that Hugo Swire MP had been seriously misled by the Chief Executive's belief that the East Devon Business Forum had no influence over planning decisions.

Barry Curwen supported a call for a full independent review of EDDC's planning system to allay public fears about the honesty and integrity of the planning system at EDDC. The Council could not be trusted and an internal EDDC review was not acceptable.

Val Ranger, Sidmouth resident, asked a question about the scope of the TAFF. She considered that EDDC had not been able to illustrate adequately the legality of excluding planning from consideration by the TAFF.

Ms M Rixon, Sidmouth Resident, was concerned that the proposal for an employment land allocation for Sidford was not part of the TAFF's remit and that it should form part of an enquiry.

Mark Watkins, Exmouth Resident, wished to challenge Minute 6. He did not consider that the background information report on East Devon Business Forum gave sufficient information for proper consideration. He asked for this to be corrected in the minutes. He queried whether the advice given by the Chief Executive at the meeting in Minute 4 paragraph 5 was treated as objective legal advice or advice from the Chief Executive. The advice given was the basis for excluding some items from consideration by the TAFF. In Exmouth, concerns raised by the Town Council over development issues had been ignored due to advice given by EDDC Officers.

The Chairman requested that the Chief Executive respond to these matters.

The Chief Executive reminded the meeting of the advice that was recorded in the minutes and he highlighted the reference to the issue of independence of the TaFF. This was the same point raised by Mr Woodward and Mr Curwen about impartial investigation and independent enquiry. Referring to the request by Ms Rixon, it was not appropriate for the TaFF to go behind the Local Plan. He also confirmed that all residents of East Devon had had the right to influence the Local Plan through comments to the Independent Inspector. If there was any evidence that the East Devon Business Forum had any undue influence on the Draft Local Plan then the Inspector could consider this.

He also confirmed that the Monitoring Officer would be carrying out an investigation under the Code of Conduct into complaints about Councillor Graham Brown's activities as a planning consultant. He had asked for a full copy of the interview with under-cover Telegraph journalists but this had not yet been received.

It was also confirmed that having reviewed the statements made by Councillor Brown in the interview made with the Daily Telegraph, the Council had referred the issue to the Police in connection with the Council's anti-fraud and corruption policy and also the bribery policy.

2. Minutes of the meeting held on 11 December 2012

Councillor Claire Wright said that she was happy that Councillor Graham Brown's case had been referred to the Police. Councillor Wright requested that the TAFF be allowed to discuss planning issues as part of its scope, subject to there being no discussion of individual planning applications.

Councillor Mike Allen questioned why the minutes did not refer to a request for a response from the Economic Development Officer to comments contained in a letter from Tony Green and asked for this to be added to the minutes. The Chief Executive responded that he had already replied to Tony Green and all Councillors and there was no need to duplicate responses from Council Officers.

Councillor Steve Gazzard reported that he was very concerned about the role of the TAFF. He considered that the Overview and Scrutiny Committee should be requested to allow the consideration of planning issues. He felt that what had happened over the last couple of days had changed the situation.

Councillor Claire Wright considered that it would not be possible to have a discussion on lobbying if the TAFF could not consider planning issues. Councillor Mike Allen also considered that the Overview and Scrutiny Committee should

access the implications including consideration of planning and the planning process if within its scope.

The Chief Executive, commented that the Overview and Scrutiny Committee had chosen not to have a full Officer report when considering the issue of the East Devon Business Forum and the related and resulting issues which would have included advice on planning issues.

He further confirmed that until further notice EDDC was withdrawing officer support from the East Devon Business Forum as at the present time it was not appropriate for EDDC officers to be engaged with this joint body.

In the light of the conflicting views expressed regarding the Taff's remit, the Chairman remarked that the best course of action was for the Overview and Scrutiny Committee to consider the issue of planning falling within the scope of the Taff.

RESOLVED: that the Overview and Scrutiny Committee be requested to consider the scope of the Business TAFF with particular reference to the inclusion of consideration of planning issues.

3 Declarations of Interest

Councillor/ Officer	Type of interest	Nature of interest
Councillor Graham Troman	Personal	Sidmouth business owner and Taylor Catering Foods was a supplier to that business.
Councillor Claire Wright	Personal	Held discussion with East Devon Alliance
Councillor Steve Hall	Personal	Budleigh Salterton business owner

4 Membership and Objectives of the East Devon Business Forum

The Chairman welcomed representatives of the Chambers of Commerce present and pointed out that this was their opportunity to give their point of view of the effectiveness of the East Devon Business Forum and any possible future replacement business organisation in East Devon.

Constitution, List of attendance/representation of business and assessing the success of a business forum

Members of the Task and Finish Forum considered the Constitution of East Devon Business Forum. Section 4.1 of the East Devon Business Forum Constitution highlighted the membership of the Forum and the TAFF needed to assess whether the membership should be enlarged or altered. The seven existing East Devon Chambers of Commerce currently had the right to attend but only had member with a vote.

Greg Page Turner, East Devon Federation of Small Business, reported that during the three years that he had been attending the Business Forum he could only

remember one occasion when anything had been voted upon. The Business Forum had also never turned away any business person who had wanted to attend. He found it a useful forum as businesses large and small could come together to discuss issues of concern. He felt that it would be a mistake to close the Business Forum.

Val Baker, Blackdown Hills Business Association reported that she had also been going to the Business Forum for the last 3 years and would welcome input into any new forum that was created. Colin Wright from Honiton Chamber of Commerce reported that all Chambers of Commerce in East Devon worked closely together. The Honiton Chamber met once a month and the East Devon Chambers every quarter. He reported that he did not feel that his Chamber of Commerce was well connected to the current East Devon Business Forum; it would be useful to have a forum to meet and discuss issues with EDDC.

Raymond Ambrose from Budleigh in Business reported that he represented a new business organisation with 65 members which worked together as part of the East Devon Chambers of Commerce. He had recently attended a meeting of the EDBF and found that the activities were very much focussed on planning. Ian Tate from the Budleigh Salterton Chamber of Commerce stated that he felt the exclusion of businesses with less than 5 employees was restrictive. He felt that individual towns needed access to EDDC to discuss their own issues. Any new Business Forum should meet in individual towns. Raymond Ambrose supported the prospect of creating an umbrella organisation for all Chambers of Commerce with the direct participation of EDDC Councillors and Officers.

Steven Kendall Tory reported that the current East Devon Business Forum did not speak for business or towns in East Devon. He had not seen anything in the minutes of their meetings that had shown benefits to small business or towns in East Devon. A Forum representing business in East Devon must be allowed to speak for all business. It was important that all groups had access to any replacement body. A new forum had to be a stand-alone group and needed to be independent. A new body with a new name should be started. He felt in practice that not all had felt welcomed by EDBF.

Councillor Steve Hall, representing the Budleigh Chamber of Commerce reported that the EDBF was perceived as a barrier to linking up with different groups; the Business Taff offered a good opportunity to introduce a new business forum that Chambers of Commerce would want to attend.

During discussion the following points and questions were noted:

- How many businesses did the East Devon Federation of Small Business represent? Just under 1,000,
- Some of the allegations made against EDBF and its leading members were unsubstantiated and could be libellous;
- The importance of having good relationships between EDDC and the towns in East Devon;
- Any new business forum should meet around the area and not be based in one town;
- The constitution of a new business forum should include membership from businesses of less than 5 employees to reflect the size of the majority of businesses in East Devon;

- It was important that any new business forum was not 'controlled' by EDDC and that the Chairman should be independent;
The importance of EDDC having a dialogue with business in East Devon;
- The need to put right what went wrong and have an appropriate body in place to represent business in East Devon and get a good business representative attendance at this body;
- The need to get a dialogue going with the Heart of the South West Local Enterprise Partnership in order to be able to lobby for the funding that was available;
- It was for the newly established business forum in East Devon to agree its own constitution; the key issue was that EDDC should not control it;
- A role of the TAFF was to make suggestions as to what forum for business in East Devon should replace the EDBF;
- The Mid Devon Business Forum appeared to appeal to a wider range of business groups;
- The importance of business having a communication link with EDDC and understanding their point of view;
- The need to work with big business as well as small business in East Devon;
- The perception has been that the EDBF was for major business in East Devon; there was the need to include smaller business - any new business organisation should take this on board;
- There was the need to support local jobs and the economy, such as Axminster Carpets;

5 The Council's view of the East Devon Business Forum

Members received a list of some of the appointments that had been to Joint Bodies by the Annual Council on 23 May 2012. The Chief Executive asked whether it was right for EDDC to fund a joint body. Councillor Claire Wright asked whether the EDBF budget of £5.2K had been spent this year and if so what on? Mark Williams, Chief Executive reported that it included a portion of officer time and accommodation costs. Concern was expressed that EDDC was providing money for a narrow range of interests. A broader range of issues should be considered by a new forum for business.

Councillor Mike Allen was of the view that the important thing was what was done in the future and that the objection of a new Forum for Business was to interact with business. He considered that it was acceptable to have overt lobbying. It was important to spend public money effectively. Councillor Claire Wright wished to take issue with the Council's definition of lobbying contained on the agenda. She considered that EDDC needed to define better how lobbying was taking place.

During discussion the following points and questions were noted:

- An issue was that EDBF was a joint body of the Council and included people who stood to gain from lobbying;
- In some ways it was useful for bodies to lobby the Council as long as this lobbying was open and transparent;
- It would be useful to establish a group to define what was acceptable lobbying within the Council.

Colin Wright from Honiton Chamber of Commerce wished to thank the TAFF for listening to the views of Chambers of Commerce from across East Devon

- RESOLVED:**
1. that the next meeting of the TAFF discuss funding of the EDBF and the breakdown of how the budget was allocated.
 2. that Nigel Harrison, Economic Development Manager send out a questionnaire to businesses and Chambers of Commerce in East Devon asking what benefit EDBF was to business and if they did not attend, why not.

6 Setting agenda for the next meeting

Members considered items for the next meeting of the TAFF:

1. Costs of EDBF, including a breakdown of expenditure;
2. IT Systems which can be used to improve communications with business;
3. The need to hear from those not yet consulted on the scoping list, such as representatives from the tourism industry, the Voluntary Sector and Exmouth Residents Traders Association;
4. Invitation to a representative from the Heart of the South West LEP and how a new forum for business could engage with this organisation.

7 The proposed date for the next meeting was agreed as:

16 April 2013 at 6.00pm in the Council Chamber

Agenda Item

Overview and Scrutiny Committee

28 March 2013



Five Year Land Supply in East Devon

Summary

Development Management Committee considered a report from the Planning Policy Manager on 5 February outlining a recent approval of planning permission by a Planning Inspector citing in his view (and contrary to the Council's position) a lack of a five year land supply. This report includes the Planning Policy Manager's original report, along with examples of applications showing other valid planning reasons for refusal for planning applications. DMC agreed with the recommendations in the report.

Recommendation

That the Committee recognises the importance of examination of the Local Plan, through which the process of housing requirement and supply of sites will be determined to establish a six year land supply.

a) Reasons for Recommendation

Examination and adoption of the Local Plan will satisfy the requirement of a six year land supply. Development Management Committee are fully conversant with other planning reasons for refusal in order to maintain an onus on approving high quality and appropriately located schemes.

b) Alternative Options

The Committee could recommend that DMC consider an interim policy approach to encourage appropriate site provision, but with the Local Plan close to examination and the timeline needed for interim policy in place (for example to include public consultation), this would be extremely difficult to achieve in a short timescale.

c) Risk Considerations

As set out in the DMC report dated 5 February 2013

d) Policy and Budgetary Considerations

Not applicable for this recommendation for recognition.

e) Date for Review of Decision

On completion on Local Plan process if required.

1 Background

Overview and Scrutiny Committee agreed to debate the topic of the importance of the five year land supply back in December 2012.

Development Management Committee received the report attached on the 5 February 2013 and agreed the recommendations in that report.

The Audit and Governance Committee identified the lack of a five year land supply as a risk to the Council and recommended that the Council put in place processes to make sure that the Council has a rolling valid five year housing land supply, which was approved by Council on 27 February 2013.

In reviewing this issue I have struggled to determine what the Overview and Scrutiny Committee can undertake in assisting the Council to reach a position of having a six year land supply in place (six years being the five year land supply plus 20% buffer).

The land supply issue is not a new issue – a Land for Housing Task and Finish Forum operated back in 2009, making recommendations on suitable sites that were taken into account as work began on preparing the Local Plan through the Local Development Framework Panel (subsequently renamed the Local Plan Panel). The current issues were a result of not having an adopted Local Plan, delay to building starting at Cranbrook and the introduction of the NPPF.

As set out in paragraph 7.3 of the DMC report, ongoing monitoring work of land supply continues, with an assessment taking place starting from April. This will consist of approximately six weeks work for the officers involved.

What will be useful for the Committee would be to remind itself of the other planning reasons that the Development Management Committee can consider in weighing up a planning application. Below are some summary details of Planning Inspector decisions that highlight reasons other than a lack of adequate land supply for refusing development.

Case examples

Appeal by Wainhomes (South West) Holdings Ltd against North Devon District Council – Inspector decision 18 February 2013.

This application was for the erection of 182 dwellings with associated roads, sewers, landscaping, parking and garages at land off Goodleigh Road, Barnstaple. This case is useful to consider because one of the issues raised at appeal was NDDC's lack of a five year land supply. The report in full is attached

Paragraph 21 of the Inspectors report outlines how, where relevant policies are out of date (in this case NNDC's policy that covered their five year land supply) permission should be granted unless either any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits; or where existing policy in the current Local Plan indicates that development should be restricted.

In her conclusion, the Inspector states the merits of the application in that it would have brought needed open market and affordable housing to the area (paragraph 71) but she gave weight to the adverse impact of the proposed development in respect of NNDC's existing policies to protect the landscape setting and designated heritage sites (paragraphs 76 to 78) to conclude that the 182 dwelling application be refused.

Appeal by Strategic Land Partnerships against East Devon District Council – Inspector decision 16 February 2012

This application was for a mixed use development comprising residential development of 154 homes, business floorspace, doctors/dentist floorspace, local shop/café, crèche/nursery, community floorspace, together with associated open space and infrastructure at Land at Courtlands Cross, Exeter Road, Lympstone (11/1293/MOUT).

The five main issues for the Inspector to consider in this case were:

- The effect on the character and appearance of the area, including the setting and identity of the village of Lympstone;
- If there was a shortfall in deliverable housing land;
- If the proposals would preserve the setting of designated heritage assets;
- The effect on nature conservation interests;
- If the proposals included adequate provision to meet recreational need of residents of the proposed dwellings.

In the report (which did pre-date the NPPF), the Inspector felt that the provision of 154 dwellings and 2,416m² of business premises and other non-residential buildings, as well as roads, car parking and lighting would dramatically alter the character and appearance of the site; as well as damage the setting and individuality of Lympstone. He also welcomed the potential provision of 60 affordable homes from the scheme and business units to help strengthen the local economy and did not support the argument that enough housing land provision was in place. The proposal would, in his view, impact on designated heritage assets but not on nature conservation interests. It would also meet recreational needs. On balance, the Inspector felt that the harm to the area outweighed the benefit and therefore refused the appeal.

Appeal by Mr A Moore against the decision of East Devon District Council - Decision date: 23 January 2013

This application was for the erection of three dwellings, landscaping, access enhancements and associated works. His main considerations were the effects of the on the character and appearance of the surrounding area; and whether any conflict with policy or other harm would be outweighed by other material considerations, with particular reference to housing land.

In this case the inspector noted the lack of a five year land supply but set out that:

“In view of the strength of protection which is given to AONBs and as the proposed development would neither protect nor enhance the landscape, my overall conclusion is that the harm to the environment would outweigh the modest economic and social benefits sufficiently to be unacceptable.”

Legal Implications

Legal implications are set out within the DMC report of 5 February 2013.

Financial Implications

Financial implications are set out within the DMC report of 5 February 2013

Consultation on Reports to the Cabinet

Not applicable

Background Papers

- ❑ Development Management Report dated 5 February 2013 on
 - ❑ Appendix A Inspector report on Appeal by Wainhomes (South West) Holdings Ltd against North Devon District Council
 - ❑ Appendix B Inspector report Appeal by Strategic Land Partnerships against East Devon District Council
 - ❑ Appendix C Inspector report Appeal by Mr A Moore against East Devon District Council
-

Debbie Meakin
Democratic Services Officer

Overview and Scrutiny Committee
28 March 2013

Agenda Item 7

Development Management Committee

5 February 2013



Five Year Land Supply in East Devon

Summary

At a recent appeal in Ottery St Mary the Council set out a case that there is a five year land supply in East Devon. Key arguments of the Council were, however, rejected by the Inspector and he approved the appeal, citing in his view, a lack of five year land supply. Consideration of future Planning Applications will need to take into account this appeal decision and the Inspector's reasoning. An onus should rest on granting approval of high quality schemes that are appropriately located.

Recommendation

That the Committee

- 1. Endorse the requirement to secure a Six Year Land Supply;**
- 2. Notes that the Housing Minister (on behalf of Government) has, since the start of the new year, announced a new package of investment designed to secure housing delivery at Cranbrook to a figure of between 400 to 500 new homes a year;**
- 3. Notes that the Council has made significant steps already in addressing housing supply through granting permission at Tythebarn Green (the site is compliant with emerging local plan policy);**
- 4. Notes that a number of major planning applications have been submitted to the Council (that are compliant with proposed allocation sites in the emerging local plan) that if granted planning permission would add substantially to the overall land supply; and**
- 5. Notes the need to grant planning approval for high quality development proposals in appropriate locations, compatible with Council objectives and strategy, to help address land supply shortfall and address the objectives of securing sustainable development.**

a) Reasons for Recommendation

To ensure that the Council are aware of the importance of a five year land supply and that this issue will need to be recognised as a material consideration in determining planning applications.

b) Alternative Options

The Ottery St Mary appeal suggests that until circumstances change (such as sufficient planning permissions are granted, new homes are built or the local plan and its allocated sites make further progress to adoption/is adopted) the Council would not be able to attach weight to land supply arguments in refusing planning permissions. The report recognises this fact and whilst there could be an option to have a more formal interim policy position to encourage appropriate site provision this would involve complexity to put in place (for example it may need public consultation) and in any case the local plan and its policy is close to examination. Considering planning applications in the light of current policy, the National Planning Policy Framework (NPPF) and relevant material considerations is deemed appropriate.

c) Risk Considerations

The risks to the Council, should we not approve more applications, are identified as:

- i. Not enough new homes being built to meet housing needs; and/or
- ii. If permissions are refused more schemes going to and being lost at appeal.

d) Policy and Budgetary Considerations

Appeals have cost implications and the building of new homes can generate jobs and money for the Council through New Homes Bonus and other sources. Granting permissions that are not on accordance with policy would, by definition, be contrary to policy.

Positive Impact Overall

Affordable Homes.

Thriving Economy.

e) Date for Review of Decision

April/May 2013, when land availability assessment will be rerun and Late 2013/Early 2014 when we can expect the Inspector's report into the local plan examination.

1 The Five Year Supply Issue

1.1 The Government wish to see more homes built and is concerned that supply of suitable and available land is a key factor restricting development. In response to this issue Council's are required under the NPPF to ensure that there is a sufficient supply of land available to accommodate housing needs for their administrative areas over the five year period looking forward. In simplified terms this means establishing the quantified need for housing (i.e. calculating how many houses should be built) and assessing whether sites and schemes that we can expect to be built will match or exceed the appropriate level.

- 1.2 At a recent appeal at Ottery St Mary (Inspector's report appended to this paper) the Inspector granted approval and Five Year Land supply was a key consideration. The Council's case was that we did have a suitable supply of land and in part this includes schemes that are proposed allocations in the emerging new local plan. The Inspector, however, found against the Council.

2 Quantifying Need for House Building

- 2.1 The first stage in assessment is quantifying or calculating housing needs. We have previously used the Structure Plan to establish required housing levels; this is the only adopted and non-time expired (in so far as setting out future housing requirements) policy document in operation. We have also used emerging Local Plan policy as a measure and it plans for 15,000 new homes across the 2006 to 2026 period. The Inspectors decision at Ottery St Mary, however, found favour with use (at the present time and as things stand) with a housing requirement figure for East Devon of 17,100 homes (this is as set out in the draft Regional Spatial Strategy) for the 2006 to 2026 period. It is the evidence behind this figure rather than the policy of RSS that he considered relevant.
- 2.2 Until the Local Plan is adopted, or makes further progress towards adoption, it is considered most appropriate to assess housing needs against a 17,100 East Devon requirement across the 2006 to 2026 period.

3 Supply of Developable Sites

- 3.1 Set against the need for house building is the 'supply' of homes that we can expect to see built in the five year period looking forward. At the Ottery St Mary appeal the Inspector accepted that we should count sites built since 2006 and currently with planning permission as part of the supply and also that it is legitimate to make a small allowance for future windfall developments. However, the Inspector's did not consider it appropriate to include sites that are proposed as allocations in the emerging Local Plan. Also he did not consider that development at Cranbrook would proceed as quickly as the Council indicated.
- 3.2 In future calculations it is considered that we should discount sites that do not have permission (until further progress is made on the local plan/policy documents). However it is not agreed that at Cranbrook we will see the lower development levels envisaged by the Inspector. Recent substantial Government funding for Cranbrook has helped to set out a coherent case to realistically expect development of up to 500 homes a year at Cranbrook and this level of development exceeds Council predictions as presented to the Inspector at the Ottery St Mary appeal.

4 Splitting of East Devon into Two Areas for Land Supply Assessment

4.1 As part of the land supply assessment we have split East Devon into two parts

- a) The West End (Cranbrook, Pinhoe and north of Blackhorse); and
- b) The Rest of East Devon.

4.2 Planning policy documents clearly refer to these separate areas, planning strategy clearly articulates separate areas and we have undertaken five year assessment of each area. In the West End, largely on account of Cranbrook starting late (but it is now being built at rapid rates) we do not have a five year land supply. But in the Rest of East Devon we exceed a five year supply position. The Inspector attached some weight to this split but took the overall District wide lack of five year supply as the critical issue. In this respect it is concluded that the Inspector considered housing numbers (and ensuring provision of a District wide level) to be (far) more important than the spatial strategy of plans and policies relating to the distribution of development.

5 Five Year Land Supply Calculations

5.1 A revised five year land supply assessment is tabulated on the next page/side. Assessment is to a 31 September 2012 base date and covers the five years period to 31 October 2017. It is produced to the same methodology as used in Council assessment of land supply at the Ottery St Mary appeal but includes the RSS housing needs figure and discounts the sources of supply effectively dismissed by the Inspector at the Ottery St Mary appeal. However the table does not adjust previous Cranbrook house building projections.

Table 1

Housing Requirements					
Strategic Housing Requirements for East Devon	Rest of East Devon	West End	East Devon Total	<i>Row</i>	<i>Formula</i>
RSS housing evidence requirement for 1 April 2006 to 31 March 2026 (20 years)	5,700	11,400	17,100	A	<i>Not Applicable</i>
Annual average requirement	285	570	855	B	<i>A/20</i>
Completions from 1 April 2006 to 31 March 2012 (6 years)	2,119	0	2,119	C	<i>Not Applicable</i>
Completions for 1 April 2012 to 30 Sept 2012 (6 months)	158	8	166	D	<i>Not Applicable</i>
Total completions from 1 April 2006 to 30 Sept 2012 (6.5 years)	2,277	8	2,285	E	<i>C+D</i>
Residual housing requirement to meet RSS requirements from 1 October 2012 to 31 March 2026 (13.5 Years)	3,423	11,392	14,815	F	<i>A-E</i>
Annual average housing requirement to meet 5 years from 1 October 2012 to 30 Sept 2017	254	844	1,097	G	<i>F/13.5</i>
housing requirement looking forward from 1 October 2012 to 30 September 2017 to meet RSS evidence needs	1,268	4,219	5,487	H	<i>Gx5</i>

Table 2

Five Year Supply - Homes Predicted to be Built Looking Forward for Five Years from 1 October 2012 to 30 Sept 2017					
Supply of Sites	Rest of East	West End	East Devon	<i>Row</i>	<i>Formula</i>

	Devon		Total		
Housing supply from sites with planning permission/under construction at 30 Sept 2012	1,571	2,620	4,191	I	Not Applicable
Other non west-end large sites with clear acknowledged development potential	0	0	0	J	Not Applicable
Future projected windfall allowance	280	0	280	K	Not Applicable
Proposed strategic allocations in the new emerging Local Plan	0	0	0	L	Not Applicable
Proposed non-strategic small site allocations	0	0	0	M	Not Applicable
Five year supply of developable sites	1,851	2,620	4,471	N	I+J+K+L+M

Table 3

Five Year Assessment Looking Forward - 1 October 2012 to 31 Sept 2017					
Years Worth of Land Supply	Rest of East Devon	West End	East Devon Total	Row	Formula
Annual RSS requirement based on 1/5th of 5 year requirement	254	844	1,097	O	H/5
The five year supply of deliverable dwellings	1,851	2,620	4,471	P	Sum of N
Years worth of supply	7.30	3.10	4.07	Q	O/P

- 5.2 Table 1 shows housing requirements and the final row shows need looking forward from 1 October 2012 to 30 September 2017 and establishes that over this five year period we should be seeing 5,487 new homes built. This calculation of need is based on the premise that it is reasonable and appropriate to spread outstanding housing requirements (specifically this includes the backlog of past under development, or houses not built in past years, as well as future requirements) evenly over the full period of 1 October 2012 to 30 September 2026.
- 5.3 Table 2 establishes the number of homes that can be expected to be built over the next five year period and sets out a District wide figure of 4,471 new homes. It should be noted that a number of the rows in the table include a figure of zero. In past assessments some of these rows included actual positive numbers but following the Inspectors reasoning/logic in the Ottery St Mary appeal decision a zero figure is now used.
- 5.4 Table 3 shows the years worth of supply that is calculated to be available. It shows a District wide figure of 4.07 years though it is significant to note that the Rest of East Devon is at 7.3 years and the West End at 3.1. It is critical to note, as well, that the NPPF advises that where there has been persistent under-delivery of housing (this is the position in East Devon) we should be adding a 20% buffer to the five years. A 20% buffer added to five years equals six years and therefore we actually need to assess provision against a six year housing requirement.
- 5.5 In order to provide for six years supply against the above analysis we would need to see an increase of 2,114 additional new homes built against current build predictions. This would result in the building of 6,585 new homes over this five year period, an average of 1,317 a year. If we were to achieve this (and by implication meet one logical outcome of the Inspectors reasoning at Ottery St Mary) it would mean granting sufficient planning permissions to enable/ensure that this level of house building occurs. For this level of house building to occur over the next five years would very probably mean that permissions would need to be granted for more than 2,114 homes, quite simply because not all permissions granted could be expected to be built out over the five year period.

5.6 The methodology used to calculate five year land availability is not set out in formal guidance and it is considered that the approach set out above is sound and appropriate. However other approaches could be applied. For example our approach has been based on an assumption that it is appropriate to spread the backlog of past need evenly over the future years of the emerging plan (i.e. up to 2026). However, elsewhere others have taken the view that any backlog should be fully accounted for in the next five years period and not spread out evenly over a longer period. This approach is not regarded as appropriate, but, if we were to take this approach the five year requirement figure (Table 1) would increase from 5,487 new homes to 7,548 new homes. The upshot of this would be that the years supply figure would be 2.96 years and to secure a 5 year (plus 20% buffer) land supply would require development of an additional 4,586 additional new dwellings, or a total of 9,057 dwellings to be built over the next five year period (an average of 1,811 per year).

6 Potential Implications of Granting Permissions for a Very Large Number of New Homes

6.1 The increased home building levels that the analysis indicates could be appropriate suggest some potentially major challenges and issues. Firstly there is the very real possibility of a significant numbers of planning applications being submitted in the near future with applicants presenting a case that we do not have a five year land supply. Whilst applications may come in there is, however, some doubt that it would be possible or reasonable to expect very high levels of house building to actually occur (almost regardless of permissions granted). It is questionable if the housing market could or would have capacity or the will to actually build very substantially greater number of houses; and aside from availability of building materials and workers it is unclear if prospective purchasers exists or even if there are reasonably credible schemes or sites that could come forward.

6.2 It is suggested that if very high levels of permissions were granted a possible outcome could be that developers would not build out schemes, or would only partly complete them, with a view to developing permitted sites over very much longer time periods (so called 'land-banking').

6.3 Furthermore granting very large numbers of planning permission could lead to very ad-hoc (unplanned) housing development that would not serve to implement planning strategy of the Council. In particular the very real possibility is that development would not be concentrated at the West End and rather would be dispersed across the rest of East Devon; this is the Rest of East Devon where we comfortably exceed, have historically exceeded and there is every expectation that we will continue to exceed in the years to come a five year (plus 20% buffer) land supply. Other outcomes of very large scale granting of permissions (or at its most extreme a possible development 'free-for-all') could include:

- a) a mismatch between development occurring and provision/availability of infrastructure;
- b) the danger of inappropriate sites (eg because they are of landscape or environmental significance or in locations remote from facilities) being developed;

- c) concern (and this may include concern by elements of the development industry itself) that the best and most appropriate sites, especially those requiring major infrastructure investment, will NOT be built. This is especially important for West End and if many easier and cheaper to develop sites gain permission it may weaken the confidence of the development industry to build out the more strategically important (but also challenging and expensive to develop) West End sites. This could have significant impacts on the confidence of other private and public sector investors and therefore overall social and economic well-being.

7 Future Action

- 7.1 In the light of the above considerations it is not regarded as appropriate to apply a 'free-for-all' or anything goes approach to granting planning permission. But the likelihood must remain (based on the reasoning used by the Inspector at the Ottery St Mary appeal) that we will, for some time at least, fall below having a five year land supply. Arguments of over-supply or even just having an acceptable supply of land will not therefore be a reasonable factor to use in refusing planning permission. But ensuring adequate and appropriate land supply will be a positive reason to use to support good development schemes that will help contribute to the social, environmental and economic aspects of sustainable development (in some cases even where development lies outside of but typically abutting or very close to Built-up Area Boundaries). Sustainable development runs to the core of the NPPF and Government planning policy.
- 7.2 There are a number of larger planning applications with the Council, or expected soon, that should (in principle) be compatible with the current and emerging objectives of the Council and also the Government sustainable development agenda as set out in the NPPF. The onus will need to rest on securing appropriate and high quality permissions on these schemes, as well as appropriate smaller schemes, in order to achieve sustainable forms and patterns of development. This will entail moving away from the rigid application of local plan policy (especially policies relating to and defining Built-up Area Boundaries) with increasing onus being attached to use and application of the NPPF.
- 7.3 Later this year, and post Local Plan examination, the emerging new local plan should carry increasing weight and allocations in that document (certainly post adoption) should legitimately form part of the housing land supply. As part of the ongoing monitoring work the Council will need to reassess the overall land supply situation and it is planned that the full assessment work will be undertaken after the 31 March 2013 (to align with the standard monitoring year period of 31 March to the following 1 April).

Legal Implications

Emerging policies can only be given full weight and used with full planning certainty post examination when they have been found to be "sound".

Although not a "legal" implication the current "planning by appeal" (Feniton and Ottery) is not delivering the development that local communities want which is particularly frustrating given the amount of consultation that has taken place on the new local plan

As a matter of law applications must be determined in accordance with the development plan unless other material considerations indicate otherwise, and that the land supply is capable of being such a material consideration, but such applications, if approved, will be contrary to policy and may need to be advertised as “departures”.

Financial Implications

There are no identifiable financial implications.

Matthew Dickins - Ext. 1540
Planning Policy Manager

Development Management
5 February 2013



Appeal Decision

Inquiry held on 8, 9 and 10 January 2013

Site visit made on 11 January 2013

by Jessica Graham BA(Hons) PgDipL

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 18 February 2013

Appeal Ref: APP/X1118/A/12/2182606

Land off Goodleigh Road, Barnstaple, Devon

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Wainhomes (South West) Holdings Ltd against North Devon District Council.
 - The application, Ref 53348, is dated 22 December 2011.
 - The development proposed is the erection of 182 dwellings, their associated roads, sewers, landscaping, parking, garages and associated works.
-

Decision

1. The appeal is dismissed, and planning permission for the erection of 182 dwellings, their associated roads, sewers, landscaping, parking, garages and associated works on land off Goodleigh Road, Barnstaple, Devon is refused.

Procedural matters

2. The application was accompanied by an Environmental Statement made in accordance with the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 ("the EIA Regulations"). The ES covers all the matters normally associated with large-scale housing development, includes additional site-specific matters and sets out mitigation proposals. Additional information on noise and population effects was provided during the course of the appeal, and at the inquiry I heard further evidence on (among other things) the characteristics of the site, local infrastructure, local heritage assets and the relationship of the development to the wider area. I am satisfied that all of this represents the necessary environmental information for the purposes of Regulation 3 of the EIA Regulations, and I have taken this information into account in my consideration of the appeal.
3. In accordance with a timetable agreed at the inquiry, the Council provided additional information to clarify its reasons for requiring various financial contributions toward local infrastructure and services, and the appellant provided written comments on that additional information. I have taken this material, and the updated S.106 Unilateral Undertaking executed by the appellant (dated 24 January 2013), into account in my consideration of this appeal.

Main issues

4. I consider the four main issues to be
 - (1) whether or not the Council is able to demonstrate a five year supply of housing land, and the implications of that in terms of national guidance and Development Plan policy;
 - (2) the effect that the proposed development would have upon the character and appearance of the area, and upon the setting of Gorwell House and Tollgate Cottage;
 - (3) the adequacy of the access arrangements; and
 - (4) whether sufficient provision would be made to offset the impact of the development on local services and infrastructure, including the provision of affordable housing.

Reasons

5. The appeal site lies outside the settlement boundary of Barnstaple, as identified in the North Devon Local Plan. This means that building houses on it would conflict with Development Plan policy aimed at protecting the countryside by preventing development outside settlement boundaries. However, that is not quite the end of the matter.
6. S.38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise. The *National Planning Policy Framework* ("the Framework"), published by the Government in March 2012, is one such material consideration. Paragraph 47 of the Framework explains that local planning authorities should identify a supply of sites sufficient to provide five years worth of housing. Paragraph 14 explains the operation of the Framework's "presumption in favour of sustainable development". Both of these considerations are capable of altering the weight to be given to conflict with Development Plan policies, and so it will be helpful to begin by looking at their application to the current case.

1. The five-year supply of housing land

7. In order to assess whether a local planning authority is able to demonstrate a five-year supply of deliverable housing sites, it is first necessary to establish its five-year housing requirement.

Housing requirement

8. Paragraph 47 of the Framework states that local planning authorities should use their evidence base to ensure that their Local Plan meets their full objectively-assessed needs for housing, and paragraph 158 explains that the evidence needs to be adequate, up-to-date and relevant. However, the North Devon Local Plan, adopted in July 2006, was only intended to cover the plan period 1995 to 2011, and so cannot now be considered up-to-date. The appellant and the Council agree that for the purpose of assessing future housing need, the housing requirement figures contained in the Devon Structure Plan (adopted in 2004) are also out of date, and I share that view. It is therefore clear that assessment of this district's housing requirement for the next five years should be informed by other more recent evidence.

9. The appellant contends that the best available evidence is that of the Draft Regional Spatial Strategy for the South West ("Draft RSS"). While I note the Council's concern that the Draft RSS is not (and in the light of the government's clear intention to revoke Regional Strategies, is unlikely ever to become) part of the Development Plan, that that does not mean that the evidence that informed its preparation should simply be disregarded. Its evidence base was thoroughly tested at an Examination in Public, the findings of which resulted in the (then) Secretary of State publishing a series of Proposed Changes in 2008. The North Devon housing requirement set out in the Draft RSS indicates that the district's housing requirement for the next five years, incorporating the 5% buffer required by the Framework and the existing unmet requirement, would be 4,221. Notwithstanding the number of objections raised at the Proposed Changes stage, that is a figure which carries considerable weight.
10. The Council contends that its most recent Strategic Housing Market Assessment (the 2012 SHMA) is based on the most up-to-date evidence available, complies with the requirements of paragraph 159 of the Framework, and constitutes an objective assessment of the district's housing need. The housing need identified by the 2012 SHMA indicates that the district's housing requirement for the next five years, incorporating the 5% buffer required by the Framework and the existing unmet requirement, would be 1,912. I attach some weight to the fact that this figure is based on the most up-to-date evidence. However, that weight must be tempered to reflect the fact that while the 2012 SHMA will be an important component of the evidence base used to inform the emerging Local Plan it has yet to be scrutinised at an Examination in Public, and the evidence base will include a variety of other assessments and projections, any or all of which may have a bearing on the Council's policy decisions as to how the district's housing requirement should be established.
11. My attention was also drawn to the housing requirement figure set out in the Council's 2008 SHMA, and the 2008-based Household Projections for North Devon published in November 2010. I attach little weight to the former, since it "took into account" the evidence base of the draft RSS but was not subject to the same scrutiny as that draft component of the Development Plan, and has in any event been superseded by the production of the 2012 SHMA. I also attach limited weight to the household projections, since they are not intended to be definitive of overall requirement, but rather to form part of the evidence base on which the Council's decisions about the district's housing need will be made.
12. Taking all of this into account, I consider that the housing requirement set out in the draft RS carries more weight than the various alternative figures, having been subjected to rigorous public testing, but that it would be unreasonable not to make some allowance for the fact that the more recent (albeit untested) evidence of the 2012 SHMA indicates that the housing need is now very much lower. It is not within my remit, in the context of this appeal, to determine the district's actual housing requirement: all that I can reliably conclude, from the evidence before me, is that it is likely to fall somewhere between the 4,221 derived from the draft RSS, and the 1,912 derived from the 2012 SHMA.
13. Since I have insufficient evidence to inform any attempt at assessing whereabouts within that vast range the true figure might lie, I will use the figure at the lowest end of the spectrum. I need to make it absolutely clear that this conclusion should not be confused with an endorsement of that lowest

figure as representing the objectively assessed housing need for the district. It is entirely possible that the figure eventually adopted in the emerging Local Plan will be closer to that in the draft RSS. My decision to use the 2012 SHMA figure for the purposes of this appeal turns on the mathematical consideration that if a five year housing supply cannot even be demonstrated against the lowest of the various alternative housing requirement figures presented, then that supply clearly does not exist.

14. A further adjustment is however necessary, to address the existing shortfall in housing provision. The five-year requirement of 1,912 is derived from the figures in the 2012 SHMA using the Council's preferred approach of spreading the shortfall across the whole 20 year plan period. I am not convinced by the Council's argument that this approach is rendered necessary by the size of the district's housing market. In my view, the correct approach is to include the shortfall within the requirement for the next five years' provision, on the basis that it constitutes an existing unmet housing need which ought to be addressed promptly rather than allowed to continue for potentially another 20 years. On the basis of the agreed figures submitted at the inquiry (document 33), calculations adopting this approach establish a five-year housing requirement, incorporating the 5% buffer required by the Framework, of 2,315 dwellings.

Housing supply

15. Following a very helpful round-table discussion at the inquiry, the evidence of the Council was that it was able to demonstrate a supply of specific, deliverable sites sufficient to deliver 1,905 dwellings over the next 5 years. The appellant's position was that the supply is slightly lower, and only sufficient to deliver 1,821 dwellings (document 33).
16. The Council and the appellant were unable to agree whether the additional 5% buffer required by paragraph 47 of the Framework "to ensure choice and competition in the market for land" would be sufficient, or whether there has been a record of persistent under delivery of housing in the district, such as would oblige the Council (under the further provisions of paragraph 47) to increase the buffer to 20%.
17. However, for the purposes of establishing the housing supply position in this particular case, the differences between the parties as to the number of deliverable sites and the size of the buffer are of little relevance. Even if the evidence of the higher number of deliverable sites is preferred, and the smaller (5%) buffer is applied, the district's five-year supply of housing land clearly falls short of its five-year housing requirement.

The policy implications of the housing supply position

18. Paragraph 49 of the Framework states that relevant policies for the supply of housing should not be considered up-to-date if, as is the case here, the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. The Council takes the view that "relevant policies for the supply of housing" are those which relate to housing numbers, but not those which concern settlement boundaries. That seems to me too restrictive an interpretation. In my judgment, policies which seek to direct the location of new residential development can reasonably be considered relevant to the supply of housing.

19. On that basis I conclude that Policy HSG2 of the Local Plan, to the extent that it seeks to prevent residential development outside the development boundary of settlements, should be considered out of date.
20. This in turn has implications for the application of paragraph 14 of the Framework to the current case. Paragraph 14 sets out how the presumption in favour of sustainable development, said to lie at the heart of the Framework, should operate. My understanding of the Council's position is that it considers a prior assessment of a proposal's sustainability to be necessary, before going on to apply the provisions of paragraph 14; on the basis that if the development were not sustainable, the presumption in favour could not apply. I am not convinced that any such prior assessment is necessary. My reading of paragraph 14 is that it sets out to explain what is meant by a "presumption in favour of development" firstly for plan-making, and secondly for decision-taking. It is the "decision-taking" section that is relevant here, and proceeding in accordance with the guidance contained in that section will ensure that any presumption in favour of the current proposal is established and applied in the manner the government intended.
21. The "decision-taking" section of paragraph 14, then, defines the operation of the presumption in favour of sustainable development as meaning that where (as here) relevant policies are out of date, permission should be granted unless (a) any adverse impacts of so doing would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or (b) specific policies in the Framework indicate that development should be restricted. The decision-taker is therefore required to identify, and then to balance, the benefits and adverse impacts of the proposal. It is to this requirement that I now turn.

(2) The character and appearance of the area, and the setting of listed buildings

22. The Council indicated that had it determined the application, its first reason for refusing to grant planning permission would have concerned the impact on the integrity of the landscape setting of the town, and the character of the surrounding landscape. Its second reason for refusal would have concerned the impact on the setting of Gorwell House and Tollgate Cottage, which are both listed buildings.

Landscape

23. The appeal site consists of two south-west facing fields to the east of Barnstaple, mainly laid to grass, which together extend to some 8.96ha. The land slopes down from the north-east to the south-west, such that the difference in levels across the site is around 40m. A public footpath runs across its northern section.
24. It is common ground that *The Devon Landscape: An Appraisal of Devon's Landscape At The Beginning of the 21st Century* (published by Devon County Council in 2002) provides a helpful assessment of the Taw-Torridge Estuary Landscape Character Zone. It describes the landscape as "...essentially an area of lowland surrounding the two major arms of the estuary, the whole being surrounded by a ring of land at a higher level, creating almost a saucer-like effect." It then goes on to consider the integrity of this Landscape Character Zone, and finds it to be "...highly vulnerable and ... probably approaching a position where it could be irrevocably changed", one of the threats to integrity

being the continued expansion of the major towns. It notes that "most of the downland rim continues free of development" and concludes that if this feature (among others) can be retained, "...then perhaps the Zone's integrity will not be lost".

25. I consider that a fair assessment. I saw that the undeveloped tops of the hills that surround Barnstaple to the north, east and south are clearly visible from viewpoints within the town, and from its western approaches. The built-up part of the settlement runs up the lower slopes of the surrounding hills but there still remains an unbroken "downland rim", which serves to define and contain the edges of the settlement, and is an important element of its landscape setting.
26. More recently, the *North Devon and Torridge Strategic Housing Land Availability Assessment (SHLAA) 2011*, while recognising that the site had been identified as an option within the draft Core Strategy as an area for future significant housing growth, considered that its development would diminish the important contribution the site makes to the landscape setting of Barnstaple. It expressed the view that development above the 70m contour line would be prominent in the wider landscape, more so to the north of the footpath crossing the site.
27. The development now proposed would involve the construction of 182 houses on the appeal site, on the land to the south of the public footpath; the remainder of the site to the north of the footpath would be used to provide public open space. A proportion of the development would therefore be sited above the 70m contour line. I note the appellant's point that the SHLAA's reference to this contour line as a notional stopping-point for development could be considered somewhat arbitrary, but its use as a reference seems to me to have been prompted by the wholly understandable concern about the visual prominence of development on the upper slopes of the hillside.
28. I appreciate that on the basis of the evidence provided there would be no breach of the skyline, and that the Council accepts that some encroachment up the hillside would be acceptable. The appellant rightly points out that the issue is therefore of extent, rather than principle.
29. The provision of open space on the northernmost slope above the new housing would ensure a narrow sliver of undeveloped hilltop remained, but the development of the site up to the line of the existing footpath would nevertheless constitute a substantial encroachment upon a currently green and open hillside. In my judgment, the scale of the development would lead to the extensive erosion of this part of the undeveloped "downland rim" around Barnstaple, as would be clearly visible in public views from within and around the town, the approach via Sticklepath Hill, and from the well-used Tarka Trail.
30. I consider that the proposed diminution of this valuable and distinctive element of the landscape would cause significant harm to the setting of Barnstaple. I note that the landscape strategy for the proposed development includes the retention of large numbers of existing trees and most of the hedgebank currently dividing the two fields, and the provision of additional planting, but none of the measures proposed would mitigate the harm caused by the extent to which the undeveloped upper slopes of the hilltop would be replaced by housing.

31. I conclude that the proposed development would conflict with the objectives of Policies DVS1 and ENV1 of the Local Plan, which seek to ensure that proposals for new development respond to and reinforce locally distinctive landscape, and protect or enhance its beauty.
32. The “design principles” that inform Policy DVS1 state that development proposals can promote legibility by providing recognisable routes, interactions and landmarks, and advises that ‘gateway’ sites at the entrances to towns require particular attention. The Council contends that the landscape character changes suddenly from urban to rural at the brow of the hill around Tollgate Cottage, and that this location is of importance as a gateway to Barnstaple.
33. Given the existence of other residential development further to the east of Tollgate Cottage, fronting both sides of the road, I consider that the extent to which this building, or the location in general, constitutes a straightforward visual ‘gateway’ to the town is limited. Nevertheless, it marks the start of the built-up area of Barnstaple, and I agree with the Council’s assessment that the landscape to its east is rural in character. The open fields that form the appeal site, prominent in views from the road as they slope upwards from the high hedgerow that directly adjoins it, contribute to that rural character.
34. The proposed development would include the creation of two new vehicular and pedestrian access points off Goodleigh Road. It would also involve the removal of the majority of the existing hedgerow along the site frontage on Goodleigh Road. A replacement Devon wall would be provided, but this new boundary treatment would be set back into the site to allow for visibility splays at the new accesses, and the provision of a pedestrian footway along the northern side of the road. Those urban features, together with clear views over the new Devon wall of estate-style housing stretching up the hillside, would drastically alter the existing rural character of the area; the natural beauty of fields that are currently part of the open countryside would be lost, as the site would effectively become part of the built-up area of Barnstaple.
35. To this extent I find that the proposal would further conflict with Policy ENV1 of the Local Plan mentioned above, which seeks to restrict development in the countryside to that which protects or enhances its beauty.

Listed buildings

36. Gorwell House to the immediate west of the appeal site, and Tollgate Cottage to the immediate south, are both Grade II Listed Buildings, and so both constitute “designated heritage assets” as defined by the Framework. In order to inform assessment of the impact that a development proposal would have on a heritage asset, the Framework first requires assessment of that asset’s “significance”. It defines significance as “The value of a heritage asset to this and future generations because of its heritage interest. That interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset’s physical presence, but also from its setting”. The concept of an asset’s “setting” is further defined as “the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.”

Gorwell House

37. Gorwell House dates from the mid-late 1820s, and was originally constructed for the owner of Barnstaple's steam-powered lace factory. The undisputed evidence of the Council is that on setting up this factory, the owner chose a site for his new house that was at some distance from the town centre, being set in what was then open countryside, but with easy connections to the factory. Ownership of the property is now sub-divided but it is common ground that this house, of late Georgian architectural design and with largely intact interior detailing, remains of aesthetic and artistic value.
38. The house was aligned so that the front elevation faced south-west, to take advantage of what would then have been attractive views over the park-like setting to the south-west of the house, and toward the town. However, in the 1960s-70s this park-like setting was lost to the construction of the Gorwell Housing Estate. While the grounds of Gorwell House have therefore contracted, the carriage drive and walled garden are intact, and the open character of the agricultural fields to the east of the property remains unchanged.
39. Taking all of this into account, I consider that much of the significance of Gorwell House lies in the fabric of the building and its immediate grounds, and would not therefore be materially altered by the proposed development of neighbouring land. However, I share the Council's view that a part of the heritage interest of Gorwell House, and therefore a part of its significance, derives from its historic relationship with the settlement of Barnstaple. This aspect of its significance is informed chiefly by its setting in relation to the town. Built as a high-status residence for the owner of a local factory, it was deliberately sited in a countryside location, set above and away from the crowded and polluted town centre, visible from many viewpoints and framed with a green background and foreground.
40. As the settlement of Barnstaple has expanded outward and upward over time, the green foreground of Gorwell House has been replaced with residential development, and that substantial alteration to its original setting has eroded this aspect of its significance. Nevertheless, a large part of it remains, due to the retention of the green background. Gorwell House is markedly larger and taller than, and is set slightly above, the newer houses of the estate below. It is therefore readily discernible in public views from the west, including approaches to the town along the Tarka Trail and Sticklepath Hill, where it is seen against largely the same backdrop of open fields as when it was built.
41. The proposed development would replace this backdrop of open fields with a backdrop of housing. A band of open space, to provide the opportunity for extensive new planting of large trees, would be incorporated within the appeal site along the eastern boundary of Gorwell House. However, while such planting could provide helpful screening in views toward the new houses from within the grounds of Gorwell House, it would do little to mitigate the impact of the development in wider views from the west. The open, agricultural character of the fields which formed the original backdrop to this heritage asset would be lost, and it would be surrounded on all sides by residential development.
42. *The Setting of Heritage Assets*, a guidance note published by English Heritage, advises that where the significance of a heritage asset has been compromised

in the past by unsympathetic development affecting its setting, consideration still needs to be given to whether additional change will further detract from the significance of the asset. In my judgment, the loss of the original open, agricultural backdrop to Gorwell House would compound the harm caused by the loss of the original open, park-like foreground, to the extent that very little of its significance, in terms of its spatial separation from the town and its countryside setting, would then remain.

43. I note the appellant's contention that since public views of Gorwell House are limited at present, by allowing users of the recreational areas and walkers of the footpaths to appreciate this heritage asset, the proposed development would accord with the Framework's aim to optimise public appreciation of the historic environment. However, the views of the house afforded from the appeal site are not of its best elevations (as is clearly set out in the appellant's evidence), are constrained by the boundary wall, and would be further obscured by the proposed tree-planting as well as the proposed new houses. There are in any event already extensive public views of Gorwell House from the wider area, and for the reasons set out above, I consider that in these views the proposed development would adversely affect the surroundings in which the heritage asset would be experienced. I therefore find that the proposal derives no support from paragraph 137 of the Framework, which promotes opportunities for new development within the setting of heritage assets to enhance, or better reveal, their significance.
44. The Framework draws a distinction between "substantial harm" and "less than substantial harm" to the significance of a designated heritage asset, but what is meant by "substantial" is not further defined. The Council's view, which was not disputed by the appellant, is that "substantial harm" implies the near or total loss of a designated heritage asset, and I consider that a reasonable interpretation. I have found, above, that only a part of the significance of Gorwell House would be harmed by the current proposal; there would be no physical impact on its fabric or grounds. On that basis, I conclude that in the terms used by the Framework, the proposed development would lead to less than substantial harm to the significance of this designated heritage asset.
45. That being the case, paragraph 134 of the Framework requires the harm to be weighed against the public benefits of the proposal, a requirement I shall return to later. For the purposes of the Development Plan, I find that the proposal would conflict with Policy ENV17 of the Local Plan, which provides that development affecting the setting of a listed building will only be permitted where it preserves its setting.

Tollgate Cottage

46. Tollgate Cottage was listed in 1951, and described as "Toll house, now an ordinary dwelling". It is set hard up against the edge of the carriageway, and has a central projecting bay with a doorway and a window in either side, allowing views from within along the road in both directions. The design of its front elevation thus provides evidence of the way turnpikes once operated, and the architectural and historic value of this provides the major contribution to the building's significance as a heritage asset. As to its setting, the closeness of the building to the road was clearly important to its operation, and hence its significance.

47. There is some disagreement as to whether this toll point could ever have been regarded as a functional “gateway” to Barnstaple. Be that as it may, the situation today is that Tollgate Cottage faces the modern residential development of Elgar Close opposite; Wellclose adjoins its eastern boundary; beyond this on the southern side of the road are the cottages of Crookman’s corner; and beyond them to the east, a further group of dwellings fronting the northern side of the road. As discussed above, I consider that in light of this other existing residential development to the east of Tollgate Cottage, the extent to which this building could now be said to constitute a straightforward visual “gateway” on the eastern approach to the town is limited.
48. Nevertheless, the open, agricultural fields that comprise the appeal site currently provide visual separation, on the northern side of Goodleigh Road, between Tollgate Cottage and the residential development to its east and west. The immediately neighbouring dwelling at Wellclose is set some distance back from the edge of the road and screened by mature planting, and as a result Tollgate Cottage acts as a focal point in the street scene. The proposed development would retain the existing relationship between Tollgate Cottage and Wellclose but remove their visual separation from the existing development to either side; the new houses would also be visible on the hillside sloping upward to the rear.
49. As a result of this alteration to the setting of Tollgate House, its current prominence in the street scene would be considerably reduced. The proposal would in this respect further conflict with Policy ENV17 of the Local Plan, in that it fails to preserve the setting of this listed building.
50. In the terms of the Framework, however, the proposed alteration to the setting of Tollgate Cottage would have only a limited impact on the overall significance of this designated heritage asset. That is because its significance derives primarily from the architectural and historic value of the building’s physical fabric, and its close relationship to the road; these elements would remain unaltered by the proposed development.
51. I conclude that the development proposal would lead to less than substantial harm to the significance of this designated heritage asset, and in accordance with the requirements of paragraph 134 of the Framework, will later weigh that harm against the public benefits of the proposal.

(3) Access

52. The proposed development would incorporate a central footpath/cycleway for pedestrians and cyclists. The gradient of the land is such that steps would need to be incorporated within this path. I note the Highway Authority’s concern that this would prove inconvenient for cyclists, but it would be relatively straightforward to include wheeling ramps within the proposed steps, and this could be secured by condition. Further, the proposed estate roads would provide an alternative, less steep route for cyclists unwilling to dismount, with footways alongside these roads suitable for prams and wheelchairs.
53. *Manual for Streets* and *Manual for Streets 2*, which together constitute the government’s most up-to-date guidance on street design, provide advice on the optimal gradient of pedestrian and cycle routes but acknowledge that topography, and other site constraints, may sometimes make that difficult to achieve. The slope of the appeal site is considerable, and clearly has a bearing

on the gradient of the vehicular and pedestrian routes that can be provided. In my judgment, the proposed arrangements would not be unsafe or unsuitable in the terms of paragraph 32 of the Framework, and would accord with the aims of Policy TRA6 of the Local Plan, which seeks to secure the safety of road users. I therefore find that the proposed layout of the central footpath/cycleway is not a consideration which weighs against granting permission for the proposed development.

54. A number of local residents expressed concern about the impact that the proposed development would have on the local road network. The construction of 182 new dwellings would clearly increase the number of vehicular and pedestrian movements to and from the appeal site, and so would increase the volume of traffic on the surrounding roads. I note that some of these roads are narrow in places and can become very busy, particularly in summer at the height of the holiday season.
55. However these, and many other, important considerations informed the professional Transport Assessment submitted by the appellant and assessed by the Highway Authority. The Transport Assessment looked at the scope and condition of the existing highway infrastructure and transport services, and assessed the traffic impact of the proposed development on Goodleigh Road, Walton Way and Gorwell Road as well as a number of junctions within Barnstaple.
56. The proposed development would involve the provision of various off-site highway works, including the provision of a pedestrian footway along the site frontage, and a section of footway on Goodleigh Road at the junction with Crookman's Corner, where none currently exists. A traffic management system would also be introduced for this section of Goodleigh Road, involving the introduction of one-way flow for vehicular traffic, with formalised locations for traffic to stop and wait for vehicles travelling in the opposite direction to pass.
57. I can understand concerns that emerging vehicles may have to wait some time before being able to join the road, and that vehicles loading or unloading in the single-track section would temporarily block the flow of traffic, but I also note that this type of traffic management scheme can have benefits in terms of considerable reductions in speed, and reductions in the extent to which verges and driveways are damaged by vehicles attempting to pass side-by-side in narrow sections of road. The Highway Authority's consideration of the proposed new road layout included assessment of swept-path analysis diagrams and the available forward visibility, and it was satisfied that the traffic management scheme would operate effectively.
58. In conclusion, I have seen no substantive evidence that would cause me to disregard the Highway Authority's professional opinion that the proposed development would, subject to the provision of the identified off-site pedestrian footways and traffic management works, be acceptable in terms of its impact on the existing highway network.

(4) Impact on services and infrastructure

59. The Council's third and fifth putative reason for refusal related to its concerns that the proposed arrangements for the provision of affordable housing within the proposed development were inadequate, and measures to secure its provision, and that of other obligations necessary to mitigate the impacts of the

- development, had not been put in place. However, at the inquiry the Council indicated that its concerns in respect of affordable housing had been satisfactorily resolved, with the S.106 Undertaking provided by the appellant now meeting its requirements.
60. I agree that the provisions detailing how the proposed affordable housing would be secured on the appeal site are necessary to render the proposed development acceptable, as are the other planning obligations contained in the Undertaking to secure the future maintenance of the Public Open Space, the Surface Water Drainage System, and highway trees; to ensure adequate public transport provision for future occupiers and to encourage sustainable travel choices; to ensure the provision of the Goodleigh Road highway works; and to part-fund improvements to the Derby Road green lane.
61. The Council requested a number of other obligations it believed necessary to offset the impact the proposed development. The appellant has included these within the executed Undertaking, but disputes the basis for requiring them. I shall consider each in turn.
62. The Council's Supplementary Planning Guidance (SPG) *Provision of Public Open Space, Sport and Recreation Code of Practice (2004)* explains that contributions toward open space and recreational facilities will be sought where proposed development would generate an additional need for such facilities, and the existing facilities would be inadequate to cope with that need. The proposed construction of 182 dwellings would be likely to generate a need for a range of facilities for children of different age groups. The Council is concerned that no on-site provision of a Multi-Use Games Area (MUGA), suitable for older children, is proposed; there is no such existing facility, within walking distance of the site, that they would be able to use. In these circumstances, I consider that the requirement either to provide an on-site MUGA, or alternatively a financial contribution to cover the Council's cost of providing an off-site MUGA nearby, is wholly reasonable and meets the tests set out in Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010.
63. The undisputed evidence of the Council is that the existing Barnstaple leisure centre, and other sport and recreation buildings nearby, are already operating at capacity in peak hours. The future occupiers of the new dwellings would add to the existing pressure on these facilities, necessitating expansion or new provision. I therefore consider that the planning obligation to pay a financial contribution toward "Built Recreation Facilities" in the vicinity of the appeal site, calculated in accordance with the SPG, meets the tests of Regulation 122. I note the appellant's point that the Council has not identified a specific project on which the contribution could be spent within 5 years of commencement of development, but that does not alter the fact that the development would generate a need for such a contribution.
64. Similarly the undisputed evidence of the Council is that sports pitches are already under-provided in Barnstaple, and again the future occupiers of the proposed new dwellings would increase demand for expansion of the existing facilities, or creation of new ones. The financial contribution toward such provision has been calculated in accordance with the SPG and I am satisfied that it meets the tests of Regulation 122.
65. I note however that the Undertaking also contains an obligation to pay a "Sports Area Maintenance Contribution" of £55,651. I have not been provided

with any evidence by either party as to why this contribution is considered necessary, and what it is intended to fund. It may be that it is directed toward the future maintenance of the play areas, open space and (potential) MUGA, but since such maintenance may alternatively (depending on an Open Space Management Scheme yet to be agreed) be funded by a Management Company, the necessity for such a contribution at this stage is unclear. In the absence of sufficient information to assess whether this contribution is necessary, reasonable, and directly related to the proposed development, I am unable to conclude that it meets the tests of Regulation 122. I therefore place no weight on the fact that the Undertaking makes provision for payment of this sum.

66. In summary, I find that all of the planning obligations contained in the appellant's Undertaking, with the sole exception of the "Sports Area Maintenance Contribution", meet the tests of Regulation 122 of the CIL Regulations 2010. I therefore conclude that the development proposal makes adequate provision for all of the measures the Council considers necessary to address the adverse impact the development would otherwise have on local services and infrastructure.

Other matters

67. The appeal site is a mix of 3ha of Grade 3A and 4ha of Grade 3B agricultural land. Land which is Graded either 1, 2 or 3A is considered "best and most versatile" agricultural land. Policy ENV7 of the Local Plan provides that development proposals not associated with agriculture will only be permitted on the best and most versatile agricultural land where (a) the economic or social benefits of the development outweigh the loss of the land, or (b) land of a lower grade is either unavailable, or has a recognised environmental value which outweighs the agricultural considerations. Paragraph 112 of the Framework advises that where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality.
68. The undisputed evidence of the appellant is that land in the area around Barnstaple is Grade 3, such that the appeal site is in any event of the lowest available grade, and that 7 of the 8 "potential areas of growth" identified in the Barnstaple Town Study Report (part of the evidence base for the Core Strategy) contain an element of land graded as 3A or above.
69. However, it is not within my remit in the context of this appeal, and nor do I have anything approaching sufficient information, to assess the relative merits of this appeal site against other potential locations for development. As outlined above, my approach must be to identify, and then to balance, the benefits and adverse impacts of this particular proposal. The fact that the appeal site would involve the non-agricultural development of some "best and most versatile" agricultural land is a consideration which needs to be weighed in that balance.
70. An application to add Wellclose House to the statutory list of buildings of special architectural or historic interest has been made, but not yet determined. This means that it is not a Listed Building for the purposes of Development Plan policy, or a "designated heritage asset" in the terms of the Framework. However, that is not to say that it has no heritage interest at all, and the Framework advises that the effect of a development proposal on the

significance of a non-designated heritage asset should be taken into account, having regard to the scale of any harm or loss.

71. The evidence before me indicates that the original part of Wellclose House was built in 1851, but has subsequently been much altered and amended. There is no clear indication of any special architectural or historic merit, and in my judgment the heritage value of the building, and consequently its "significance", derives primarily from its fabric and the disposition of its immediate grounds. The residential development of the agricultural land to the north, west and east of the property would fundamentally alter a large part of its original surroundings. While this would (as the appellant recognises) to some extent erode its significance, the fact that the setting makes only a limited contribution to that significance would restrict the amount of harm caused.
72. The occupiers of Wellclose, and other dwellings neighbouring the appeal site, expressed concern about the impact that the proposed development would have on their properties. I appreciate that the construction of new houses on neighbouring land is likely to create the perception of a substantial loss of privacy. However, the proposed layout of the development is such that the separation distances between new and existing dwellings, supplemented in many cases by additional boundary planting, would be sufficient to prevent any harmful levels of overlooking. The outlook from some existing dwellings and their private gardens, Wellclose in particular, would be altered but in my judgment this alteration would not cause significant harm to the living conditions of the existing occupiers.
73. Local residents also raised concerns about water run-off from the site and the ecological impacts of the development. However, these are matters which have been addressed in evidence submitted by the appellant and others, and assessed by the professional officers and advisers of the Council. From my consideration of the available evidence I consider that adequate measures to ensure proper drainage and ecological mitigation are available, and could be secured by condition. These are not, therefore, considerations that weigh against the proposal.

Conclusion

74. Drawing all of this together, there are a number of benefits that weigh in favour of the proposed development. I attach considerable weight to the fact that it would deliver both open-market housing and much-needed affordable housing, in a district that currently has an insufficient supply of housing land to meet its five-year housing requirement, and has fallen badly behind with its provision of affordable housing. In light of the emphasis placed by the government on the importance of economic growth, I attach some weight to the fact that the proposed development would assist the local economy through the generation of construction work, and a payment to the Council under the New Homes Bonus scheme. I also attach some weight to the provision of Public Open Space within the development, since these areas, previously in private ownership, could be enjoyed not only by future residents but also existing members of the community.
75. The Statement of Common Ground records the Council and appellant's agreement that "enhancements" to sustainable transport services and Public Open Space (including financial contributions toward off-site provision) secured

- by the S.106 Undertaking amount to benefits of the proposed development. I do not agree with that approach. The provisions of the Undertaking should be aimed solely at addressing the impacts of this particular development, in order to render acceptable impacts that would otherwise be unacceptable; to the extent that they went beyond that, they would fail the tests of CIL Regulation 122, and should be disregarded. I therefore attach only very limited weight to these "enhancements", to account for such incidental benefits as might accrue to existing nearby residents from any spare capacity in the planned play areas, proposed MUGA and increased bus service.
76. As to the adverse impacts of the proposed development, I attach a great deal of weight to the serious harm that it would cause to the landscape setting of the town through the extensive erosion of this part of the undeveloped "downland rim" around Barnstaple, the retention of which is a key element in preserving the integrity of this Landscape Character Zone. I also attach some weight to the fact that the residential development of the appeal site would harmfully alter the existing rural character of this part of Goodleigh road.
77. I concluded above that in the terms used by the Framework, the harm caused to the "designated heritage assets", Gorwell House and Tollgate Cottage, would be less than substantial. But it does not follow that the weight attributed to the identified harm must also be less than substantial. Bearing in mind the requirement under S.66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have "special regard" to the desirability of preserving the setting of a listed building, I consider that the loss of the original backdrop to Gorwell House, resulting in the near total loss of that part of its significance which derives from its countryside setting and spatial separation from the town, would be an adverse impact of considerable weight. The alteration to the setting of Tollgate Cottage would cause a much lesser degree of harm to the significance of that building, but would still be an adverse impact carrying some weight.
78. Taken together, I consider that the harm caused to the landscape setting of Barnstaple, and to Gorwell House, would be sufficient to significantly and demonstrably outweigh the benefits of the proposed development. When the harm caused to the landscape character of this part of Goodleigh Road and the adverse impact upon the significance of Tollgate Cottage are added to the balance, along with the loss of some "best and most versatile" agricultural land and the more limited weight that attaches to the erosion of the heritage significance of Well Close, the clear conclusion is that planning permission should be refused.
79. I therefore determine that the appeal should be dismissed.

Jessica Graham

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr P Wadsley, of Counsel

Instructed by the Solicitor to North Devon Council

He called:

Mr B Hensley IEng FIHE MILT

Development Manager, Highways and Transport

Mr P Leaver BA(Hons) DipLD CMLI

Director, David Wilson Partnership Ltd

Ms C Hall MSc IHBC

Project Officer (Heritage and Conservation)

Mr P Rowan DipTP MRTPI

Director, Rowan & Edwards Ltd

FOR THE APPELLANT:

Mr P G Tucker QC

Instructed by Mr S Harris, Emery Planning Partnership Ltd

He called:

Mr S J Dale DipLA CMLI

Managing Director, ACD Group

Dr J Edis BA MA PhD MIFA IHBC

Partner, Heritage Collective

Mr S Harris BA(Hons) MRTPI

Associate Director, Emery Planning Partnership Ltd

INTERESTED PERSONS:

Mr Neighbour

Local resident

Mr Reed

Local resident

Mrs Andrew

Local resident

Mrs Phillips

Local resident

Mrs Marston

Local resident

Mrs Fish

Local resident

CORE DOCUMENTS

- CD 1 RPG 10
- CD 2 Devon Structure Plan 2010-2016
- CD 3 Adopted North Devon Local Plan 2006
- CD 4 Secretary of State's Proposed Changes to the draft RSS July 2008
- CD 5 North Devon and Torridge Joint Core Strategy – Pre-publication draft January 2010
- CD 6 Committee report and minutes for 7 November 2012 Meeting
- CD 7 Housing Land Supply 2012 Report
- CD 8 Landscape report produced by David Wilson Partnership Limited for North Devon Council
- CD 9 Strategic Housing Land Availability Assessment 2011
- CD 10 North Devon Annual Monitoring Report 2010/11
- CD 11 Affordable Housing Code of Practice (March 2004)
- CD 12 Guide on Refuse Storage for New Residential Properties (June 2007)
- CD 13 Developer Contribution Code of Practice (May 2007)
- CD 14 Education Contributions Code of Practice (February 2007)
- CD 15 Guidance on the Use of On-Site Renewable Technologies (May 2008)
- CD 16 Provision of Public Open Space, Sport and Recreation Code of Practice (March 2004)
- CD 17 Sustainable Design and Construction Guide (January 2010)
- CD 18 Barnstaple Town Study Report Core Strategy Evidence (October 2011)
- CD 19 The Devon Landscape – An Appraisal of Devon's Landscape at the beginning of the 21st Century
- CD 20 The Essence of Devon – Devon's Landscape (December 2003)
- CD 21 The North Devon Landscape Assessment (November 1993)
- CD 22 The Joint Landscape Character Assessment for North Devon & Torridge (2010)
- CD 23 The Setting of Heritage Assets, English Heritage (2011)
- CD 24 (removed)
- CD 25 Devon County Waste Local Plan
- CD 26 Listing description for Gorwell House
- CD 27 Listing description for Tollgate Cottage
- CD 28 Listing description for Milestone at SS 5735 3331 Goodleigh Road (south side)
- CD 29 National Planning Policy Framework
- CD 30 Listed Building Act 1990
- CD 31 North Devon Council Affordable Housing Delivery Plan
- CD 32 By Design – Better Places To Live
- CD 33 Devon County Council Design Guide: Highways in Residential and Commercial Estates
- CD 34 Manual for Streets
- CD 35 Manual for Streets 2
- CD 36 Guidelines for Landscape and Visual Impact Assessment (Second Edition) published by the Landscape Institute and the IEMA (2002) (GLVIA)
- CD 37 Landscape Character Assessment: Guidance for England and Scotland, published by Scottish Natural Heritage and the Countryside Agency (2002)
- CD 38 Landscape Institute Advice Note 01/11
- CD 39 Strategic Housing Market Assessment 2008
- CD 40 Post appeal submission consultation responses

DOCUMENTS SUBMITTED AT THE INQUIRY

- 1 List of appearances on behalf of the Appellant
- 2 Rebuttal proof of evidence of Mr S J Dale
- 3 Copy of appeal decision ref. APP/U1105/A/12/2180060, submitted by the appellant
- 4 Copy of appeal decision ref. APP/Y3940/A/11/2166277, submitted by the appellant
- 5 Copy of rebuttal proof and appendices of Mr I Awcock CEng MICE MIHT MCIWEM, a witness instructed, but not called, for the appellant
- 6 Copy of appendix CH3 to Ms C Hall's proof of evidence, not previously provided
- 7 Corrected proof of evidence of Mr P Leaver
- 8 Supplementary proof of evidence of Ms B Venn, a witness instructed, but not called, by the Council
- 9 Copy of the SHMA 2012 Final Report, submitted by the Council
- 10 Extract from *By Design: Better Places to Live*, submitted by the appellant
- 11 Extracts from Council's published affordable housing guidance, concerning provision of public open space by RSLs and the Affordable Housing Code of Practice, submitted by the appellant
- 12 Copy of *Affordable Housing Code of Practice – Revised Draft*, submitted by the appellant
- 13 Draft S.106 Agreement
- 14 Suggested conditions, with comments by Appellant and Council
- 15 Opening submissions on behalf of the Appellant
- 16 Opening submissions on behalf of the Council
- 17 Revised versions of Figures 3 and 6 of the appendices to Mr Leaver's proof of evidence
- 18 Mr Townsend's comments on disputed sites within the Council's identified housing land supply
- 19 Copy of appeal decision ref. APP/D3315/A/12/2170249, submitted by the Council
- 20 Copy of appeal decision ref. APP/U1105/A/11/2161479, submitted by the Council
- 21 Copy of appeal decision ref. APP/U1105/A/12/2180060, submitted by the Council
- 22 Copy of appeal decision ref. APP/Y2810/A/12/2180530, submitted by the Council
- 23 Schedule of submitted plans, agreed by the Council and the appellant
- 24 List recording the Council's and Appellant's respective views on the dwellings to be counted as part of the housing supply, following the round table discussion at the inquiry
- 25 Copy of viewpoint 11 from the appendices to Mr Dale's proof of evidence
- 26 Set of photographs of the appeal site and environs, submitted by Ms Phillips
- 27 Extract from the Draft North Devon and Torridge Local Plan
- 28 Mr Leaver's list of comparative ridge heights for Gorwell House and plots within the proposed development
- 29 Revised schedule of submitted plans, agreed by the Council and the appellant
- 30 Copy of p.103 of the North Devon Local Plan (2006)
- 31 Document setting out why the provisions of the S.106 deed are considered to be compliant with CIL Regulation 122, submitted by the appellant

- 32 Draft S.106 Undertaking
- 33 Document setting out the comparative calculations of the Council and the appellant concerning housing supply numbers, agreed by both
- 34 Amended version of Document 14 supra, submitted by the Council
- 35 Suggested wording for a condition governing parking space allocation, agreed by the Council and the appellant
- 36 Copy of Policy ECN15 of the North Devon Local Plan (2006)
- 37 Complete copy of the *North Devon and Torrridge Local Plan Pre-Publication Draft (Committee Version)* dated January 2013, extracted at Document 27 supra, prefaced with a report to the Council Executive
- 38 Copy of closing submissions on behalf of the Council, with a summary of the appeal decisions at Documents 19, 20, 21 and 22 supra
- 39 Copy of closing submissions on behalf of the appellant

DOCUMENTS SUBMITTED AFTER THE INQUIRY

- 40 Agreed plan showing footpaths affording views of the site, to assist with site visit
- 41 Note explaining the Council's reasons for seeking the provision of planning obligations, with supporting material
- 42 Note setting out the appellant's comments on Document 40 supra
- 43 Executed S.106 Undertaking, dated 24 January 2013, given by the appellant



Appeal Decision

Inquiry held on 24-27 & 31 January and 1 February 2012

Site visits made on 23 January and 1 February 2012

by Neil Pope BA (Hons) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 16 February 2012

Appeal Ref: APP/U1105/A/11/2161479

Land at Courtlands Cross, Exeter Road, Lypstone, Exmouth, Devon, EX8 3NS.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Strategic Land Partnerships against East Devon District Council.
 - The application Ref. 11/1293/MOUT, is dated 31 May 2011.
 - The development proposed is a mixed use development comprising residential development (C3), business floorspace (B1), doctors/dentist floorspace (D1), local shop (A1)/café (A3), crèche/nursery (D1), community floorspace (D2), together with associated open space and infrastructure.
-

Decision

1. The appeal is dismissed and outline planning permission is refused.

Procedural Matters

2. Approval is sought in respect of access and layout only. Details relating to appearance, landscaping and scale are reserved for subsequent consideration.
3. East Devon District Council as the Local Planning Authority (LPA) would have refused permission for 6 reasons. These relate to the following matters: the location of the site outside the built-up area boundary of a settlement and the impact upon the landscape, amenity and environmental qualities of the area, including high grade agricultural land; the location of the scheme within a Green Wedge, which would damage the identity of Lypstone and result in sporadic development that could lead to settlement coalescence; a risk to highway safety and the interference with the free flow of traffic; inadequate provision for recreational facilities; inadequate information in respect of the impact upon the setting of the Grade II listed Courtlands House and; inadequate information relating to biodiversity and protected species.
4. At the Inquiry the LPA informed me that its fifth 'reason for refusal' (setting of Courtlands House) as set out within its Rule 6 Statement had been incorrectly taken from a previous scheme for a similar development on the site (Ref. 10/0694/MOUT). Instead, the LPA's concerns on this matter were those set out in the recommendation (reason No.5) contained within its committee report of 15 November 2011. In essence, this alleges a harmful impact upon the setting of Courtlands House and its Grade II listed boundary wall. I have noted these matters in determining the appeal.

5. Prior to the Inquiry, and after the receipt of further information and discussions with the Highway Authority, the LPA withdrew its concerns regarding traffic/highway safety. The LPA also informed me that following the completion of a planning obligation under the provisions of section 106 of the above Act, it no longer wished to pursue its concerns regarding biodiversity/protected species. I have noted these matters in determining the appeal.
6. At the beginning of November 2011, the appellant submitted a revised layout plan (Ref. 10780 L 01.04 rev P5) to the LPA. In essence, these revisions involve modifications to the access arrangements from Courtlands Lane, alterations to the internal spine road, alterations to the indicative tree planting, revised boundary treatment and the inclusion of a pathway. The appellant informed consultees of this revised plan and third parties who were originally notified as part of the application, including those who had written at 'application stage'. In addition, copies of the plan were made available for the public to view at Exmouth Library and the LPA's offices. A site notice was also displayed and a public notice was placed in a local newspaper. The LPA informed me that its 'reasons for refusal' were based upon this amended plan.
7. Having regard to the Planning Inspectorate's Good Practice Advice Note 09 'Accepting amendments to appeal' and the Wheatcroft Principles¹ the revisions, although different in detail, do not fundamentally change the nature of the application. The amendments have been publicised in an appropriate manner. The Statement of Common Ground that has been agreed by the LPA and the appellant relates to these revisions. Interested organisations and persons have also had opportunity to comment on these revisions before the Inquiry. Those members of the local community who appeared at the Inquiry informed me that their interests would not be prejudiced if I were to determine the appeal on the basis of the amended layout plan. I shall therefore determine the appeal accordingly.
8. The planning obligation (agreement) which was submitted at the Inquiry is signed by the appellant, Devon County Council and the LPA. It includes a mechanism for making available 40% of the proposed dwellings as affordable housing, provision for formal and informal open space within the development and financial contributions towards the cost of: providing and maintaining a habitat for Cirl Buntings within the vicinity of the site; primary and secondary education (including ICT equipment); providing and improving measures to reduce the potential cumulative impact upon Special Protection Areas (SPAs) or Special Areas of Conservation (SACs) within the vicinity of the site and; off site recreational facilities or an improved cycleway to the Exe Estuary.
9. A second planning obligation (unilateral undertaking) was also submitted at the Inquiry. This includes provision for maintaining the hedge adjacent to the A376, the installation of traffic control/one way barrier to prevent access by motorised vehicles from the site westwards along Courtlands Lane and provision for a free school bus service to the site.
10. I shall return to these planning obligations within my reasoning below and, in so doing, shall have regard to the tests set out in Circular 05/2005² and Regulation 122 of the Community Infrastructure Levy Regulations 2010.

¹ Bernard Wheatcroft Ltd v SSE [JPL, 1982, P37]

² Planning Obligations

11. At the Inquiry an application for an award of costs was made by the appellant against the LPA. This application is the subject of a separate Decision.

Main Issues

12. The five main issues are: a) the effect upon the character and appearance of the area, including the setting and identity of the village of Lympstone; b) whether there is a shortfall in deliverable housing land and the implications for the housing objectives and spatial vision for East Devon; c) whether the proposals would preserve the setting of designated heritage assets, having particular regard to the Grade II listed Courtlands House and its Grade II listed boundary wall; d) the effect upon nature conservation interests and; e) whether the scheme would include adequate provision to meet the recreational needs of residents of the proposed dwellings.

Reasons

Character and Appearance

13. The appeal site comprises 9.9 ha of agricultural land on a shallow ridge with lower land to the north, west and south. It forms part of the open countryside and the designated Area of Great Landscape Value³ (AGLV) and Green Wedge⁴ between the town of Exmouth and the village of Lympstone.
14. Notwithstanding existing boundary hedges, from the East Devon Way, which passes through the site, there are splendid views to the west across the Exe Estuary and towards the Haldon Hills. There are also pleasing views of Lympstone to the north across unspoilt rolling countryside. These views and the open qualities of the site are very attractive features of this public right of way.
15. From the A376 to the north, sections of minor roads to the north east and parts of Lympstone, the site is an integral component of the delightful countryside setting to the village. Parts of the site are also visible from the A376 to the south and in more distant views, including the Imperial Recreation Ground and the western side of the Estuary. From these areas the site forms part of the attractive countryside which abuts the north western edge of Exmouth.
16. Whilst Exmouth and Lympstone are in close proximity to one another the topography and intervening countryside form a clear break between the outer limits of these settlements. This also assists in setting them apart from the sporadic development that has taken place around Sowden Farm to the north west of the site. As set out in the supporting text to LP policy S6, this break in development is important in retaining the distinct identities of town and village.
17. I note the appellant's assessment/argument that the site is of 'medium sensitivity to change'. Whilst it does not fall within a nationally designated landscape, the section of the East Devon Way passing through the site is popular with visitors and those living nearby. As I saw during my visits, Courtlands Lane, which adjoins the site and denotes the northern limit of the built-up area boundary⁵ of Exmouth, is also well used by walkers and cyclists.

³ Policy EN2 of the adopted East Devon Local Plan 1995-2011 (LP) and policy CO4 of the Devon Structure Plan 2001 to 2016 (SP)

⁴ LP policy S6

⁵ As defined on the LP Proposals Map and policy S2

The fields on either side of this lane, including the appeal site, denote a clear break from the built-up area of the town and create a sense of countryside.

18. Having regard to many of the representations made by residents and visitors to the area, it is clear to me that the site is part of a cherished and valued landscape not least for its role in maintaining the distinct and separate identity of Lympstone. This is reflected within the Lympstone Parish Plan⁶, to which I attach some limited weight, and which states: "*The character of Lympstone is one of a discrete settlement and the preservation of the 'Green Wedge', 'The Coastal Preservation Area' and 'The Area of Great Landscape Value' between Lympstone and Exmouth are of supreme importance and must be preserved at all costs.*" The site is of more than 'medium sensitivity to change'.
19. The proposed layout would be designed with the buildings set back from the edges of the site and served by a central spine road. Much of the existing hedgerows would be retained and the reserved matters could include new landscape planting along the boundaries of the site. This is intended to reduce the impact of the development upon the character and appearance of the area.
20. Other than the loss of four sizeable fields, the proposal would not harm any of the other key landscape features which are identified within the LPA's published landscape character guidelines⁷ for this 'lower rolling farmland and settled slopes' character area. However, the provision of 154 dwellings on this site, approximately 2,416m² of business premises and other non-residential buildings, as well as roads, car parking and lighting would dramatically alter the character and appearance of the site and the contribution it makes to the landscape and scenic qualities of the area. This major development proposal would have very much more than a limited visual impact on this AGLV.
21. The development would seriously erode the unspoilt open qualities of the site and would markedly erode the integrity of the Green Wedge that separates Exmouth from Lympstone. Extensive planting along the northern boundary of the site and a gap of about 450m between the nearest proposed dwelling and the defined settlement boundary of Lympstone would not mitigate this major incursion into the setting of this village.
22. For many of those living within Lympstone, the new buildings and their associated activities and paraphernalia would, due to the topography, appear much closer than 450m. For residents living along the northern side of Courtlands Lane, users of this road and the East Devon Way, the proposal would, in effect, link with the development in the vicinity of Sowden Farm.
23. From parts of the village, Courtlands Lane and the East Devon Way the proposals would represent a very sizeable and unplanned/'creeping' encroachment of Exmouth into the surrounding countryside. Whilst the settlement limits of Lympstone and Exmouth would not physically touch, the proposal would blur the distinction between the town and village. This would considerably damage the setting and individual identity of Lympstone.
24. I note the appellant's arguments that the scheme would not result in settlement coalescence and the layout would be designed to discourage any suggestion of future expansion to the north. However, as borne out by the numerous letters of representation and the evidence given at the inquiry by

⁶ Not part of the development plan but endorsed by the LPA and used to inform decision making in the District

⁷ East Devon District Council Landscape and Character Assessment and Management Guidelines 2008

- some interested parties, for many of those already living within the area this would fail to allay their perception that the development would amount to or, at the very least, encourage coalescence.
25. For visitors travelling to Exmouth along the A376, the scheme would in effect, appear to move the 'entrance' to Exmouth 'to the exit' from Lympstone. If permitted, the proposal would not provide a more robust edge to Exmouth than exists at present. Furthermore, unlike the Dinan Way extension, which is allowed for within the LP, approving the appeal scheme could be interpreted by some as weakening the protection afforded to the Green Wedge and, in turn, could increase the pressure to release adjoining land for development.
 26. There is much greater strength in the arguments of the LPA and the local community on the matter of coalescence. The proposal would be at odds with and could undermine the provisions of LP policy S6.
 27. My attention has been drawn to numerous appeal decisions from elsewhere. These include a scheme for a much larger mixed use development in a Green Wedge in Leicestershire (Ref. APP/T2405/A/10/2138666). I note the findings of the Inspector and the decision of the Secretary of State to allow that appeal. However, each case must be determined on its own merits.
 28. The site in Leicestershire was adjacent to a motorway and dual carriageway. It was also sub-divided by local roads and in part, was heavily treed and included overhead power lines. A strategic review of that Green Wedge also found that it did not separate the existing residential area from any other settlement. This is quite unlike the situation before me. These are material differences and this decision does not set a precedent that I am bound to follow.
 29. From the East Devon Way, the proposal would considerably erode the unspoilt open qualities of the site. Most, if not all, of the alluring views that currently exist across the site would be blocked or extinguished by the new buildings. In future, users of this route would walk through a small orchard flanked by buildings on either side with associated parking areas before crossing a new spine road and continuing between more houses and alongside a children's play area. This would be a very poor substitute for the 'natural' scenic qualities and 'countryside experience' which are currently available to walkers. Although this forms a small part of the overall length of this long distance path the proposal would seriously diminish the enjoyment of this section of the East Devon Way.
 30. When seen from the south, some of the new buildings would appear on the skyline and would elongate the small ribbon of houses along Courtlands Lane. Development would extend up to and beyond Courtlands House on the northern side of this lane. Whilst this would be seen against a foreground of open countryside, it would have the effect of consolidating the existing sporadic development around Courtlands House and, to a limited extent, detract from the countryside setting of this part of Exmouth.
 31. The harmful impact of the development would continue throughout the hours of darkness with upper floor lights in the new dwellings and possibly new street lighting being apparent along this ridge. This and the other harm that I have identified above to the appearance of the area would conflict with the provisions of LP policy EN2 and SP policy CO4.
 32. Due to the topography and distance from the railway and National Cycle Network route 2 (NCN 2), the proposal would not intrude into any important

views along the eastern side of the Estuary. It would be a considerable distance from public vantage points on the opposite side of the Estuary, including the Haldon Hills. When looking across the Estuary, the development would not stand out as a conspicuous feature or have any perceptible impact upon the character or appearance of the area. However, this would not diminish the harmful impacts that I have identified above in respect of the AGLV, Green Wedge and East Devon Way.

33. The proposal would seriously harm the character and appearance of the area, including the setting and identity of the village of Lypstone. This harm and the conflict with the 'saved' development policies that I have found lead me to conclude that in landscape/settlement terms this site is unsuitable for housing.

Housing Land/Spatial Vision

34. Both main parties agree that there is only a 2.72 years supply of deliverable sites for housing within the District. This is an important material consideration. As set out in Planning Policy Statement (PPS) 3 'Housing', where less than a five year supply of deliverable sites exists, local planning authorities should consider favourably planning applications for housing, having regard to the policies in PPS3, including the considerations in paragraph 69.
35. On behalf of the appellant, it was accepted that if substantial harm arose in respect of any of the matters referred to in paragraph 69 of PPS3 then, depending upon the circumstances of the case, permission could be refused. I note from two recent appeal decisions for housing in East Devon that notwithstanding the lack of a 5 year supply of deliverable sites permission has been withheld (Refs. APP/U1105/A/11/2155312 & 2156973).
36. Each case must however be determined on its own merits. These other appeals in East Devon relate to villages that are much smaller in size and further down the settlement hierarchy than Exmouth⁸. Under SP policy ST15 Area Centres, unlike villages, are intended to provide a strategic focus for the provision, amongst other things, of housing⁹ and employment opportunities to meet local needs and those of their rural hinterland, and only those needs. These appeal decisions and others drawn to my attention from elsewhere are not directly comparable to the case before me and do not set a precedent.
37. These include the Secretary of State's decision in 2008 in respect of a much larger housing scheme at Exminster (Ref. APP/P1133/A/08/2063604). Since that time progress on the Regional Spatial Strategy (RSS) has stalled. The Secretary of State's proposed changes are very unlikely to progress further, with provision in the Localism Act 2011 to revoke RSS. This is very different to the situation in 2008. As a consequence, the proposed changes to the RSS now carry only very limited weight.
38. The LPA accepts that the appeal scheme could result in the delivery of high quality housing and would achieve a good mix of housing, including accommodation for families. It also recognises that the development would use land effectively and efficiently. After some delay and confusion, the LPA also accepted that the site was in a sustainable location in transport terms and re-affirmed what it had agreed within the Statement of Common Ground.

⁸ A designated Area Centre under LP policy S2.

⁹ SP policy ST17 sets out the housing and employment provision 'at the Exeter PUA' and 'Elsewhere' in East Devon

39. However, in response to the appellant's case regarding a pressing need for housing within the District as a whole, the LPA contends that the scheme would be at odds with the spatial vision for the area and its disaggregated approach to housing land supply.
40. Notwithstanding that the LP period has expired, the spatial vision for East Devon, including LP policies S1, S2 and S3, is 'saved'. The Statement of Conformity with the SP also states that the LP is sufficiently flexible to allow it to contribute towards meeting development needs over the period to 2016. Under LP policy S2, the bulk of new development outside the Exeter Principal Urban Area (PUA) is intended to be accommodated at Exmouth and Honiton.
41. During my site visits, I saw considerable development activity taking place at Cranbrook¹⁰. However, there remains a gross deficiency in the delivery of housing at this new settlement. In this part of the District there is less than a 1 year supply of deliverable housing sites. It is unlikely that this shortfall will be met by 2016.
42. My attention has also been drawn to the site's inclusion within the Exeter-Sub Market Area¹¹ (SMA) of the Exeter Housing Market Area. The site has strong functional and good public transport links to Exeter. Nevertheless, the Exeter SMA does not form part of the spatial vision for the District and the site is a considerable distance from the 'at Exeter PUA' and Cranbrook.
43. The proposal would not contribute materially to the strategic objective of creating a sustainable urban extension to Exeter. Moreover, permitting the scheme on the basis that it could assist in meeting the shortfall in delivery at the PUA/Cranbrook would be at odds with the provisions of SP policy ST15 and LP policy S2. Any approval made on this basis would not meet the local needs of Exmouth and its hinterland.
44. Under the LPA's disaggregated approach, the appeal site lies within the 'rest of East Devon', where 10.15 years supply of deliverable housing exists. However, the appellant's analysis indicates that the bulk of this supply has not been directed to Exmouth and Honiton, as provided for by LP policy S2, but instead, has gone to other Area Centres, Local Centres and elsewhere. This supports the appellant's argument that the spatial vision for the District does not appear to have been implemented as intended by the development plan.
45. The evidence before me indicates that there is an acute shortage of affordable housing within Exmouth. There is also some evidence to suggest that the employment needs of the town are not being adequately met. This is most unsatisfactory especially for those in need of housing and local businesses seeking to expand or relocate to more suitable premises. Whilst this is not solely attributable to the manner in which the spatial vision appears to have been implemented, it is likely to be a contributing factor.
46. LP policy S2 does not mention a percentage split in the 'bulk' of new development between the various settlements or between Exmouth and Honiton. If, as is conceivable, a lower percentage split was attributed to Exmouth than ascribed by the appellant, the appellant's predicted housing shortfall to 2016 in this part of the District would be reduced. The extent of this reduction would be dependent upon interpretations of LP policy S2. In all

¹⁰ This new settlement forms part of the 'at Exeter PUA' referred to in SP policy ST17.

¹¹ Defined in the Exeter & Torbay Strategic Housing Market Assessment 2007

- probability, some shortfall appears likely, although it is very far from certain that this would be as great as that suggested by the appellant.
47. Whatever assumption/percentages are used in assessing housing delivery against the spatial vision, building about 60 affordable dwellings on the site would make an important contribution towards meeting Exmouth's housing needs, irrespective of its inclusion within Lymptone parish. The LPA accepts that the provision of affordable housing in the town has been disappointing and points to housing schemes being approved that fall under the threshold for requiring an element of affordable housing. It is unlikely that any other housing site(s) would deliver this scale of housing for the town up to 2016.
48. The proposed 60 affordable homes is an important benefit of the scheme. In addition, the new business units would strengthen the local economy during very difficult economic circumstances. This would also create employment opportunities. The provision of affordable housing and the delivery of economic growth are corporate priorities of the LPA. In accordance with the Ministerial Statement of 23 March 2011¹², this weighs heavily in favour of an approval. I also note the policies within the Draft National Planning Policy Framework. However, as this is only in draft form, it carries little weight.
49. Providing much needed general market and affordable housing, as well as business premises, to meet the needs of Exmouth would accord with the spatial vision. There is nothing to show that the proposal would prejudice the delivery of housing development 'at the Exeter PUA'/Cranbrook or that adding to the housing land supply figures for the 'rest of East Devon' would undermine the settlement hierarchy or housing objectives of the development plan.
50. The LPA informed me that further increasing the housing land supply figure for the 'rest of East Devon' would make the figure "*look slightly strange*". However, this does not amount to harm and it is rather telling that the 'reasons for refusal' make no reference to any conflict with the spatial vision.
51. I note that in April 2010, and notwithstanding, at that time, a recognised 9 yr supply of housing land for the 'rest of East Devon', the LPA approved a scheme for 103 dwellings in an Area of Outstanding Natural Beauty at Sidmouth (Ref. 09/2093/MFUL). Whilst this is not adequate grounds for permitting the appeal scheme, it suggests an inconsistency in the LPA's approach to decision making.
52. My attention has also been drawn to the New East Devon Local Plan 2006 to 2026 Consultation Draft (emerging LP) and a report¹³ undertaken by the LPA in respect of potential strategic allocations for Exmouth. This report forms part of the evidence base to the emerging LP. It includes the appeal site and an adjoining area of land as one of 14 potential strategic sites. There is also a suggestion that the appeal site could accommodate a new school.
53. The emerging LP is at an early stage and carries very limited weight. The appeal site is not one of the proposed allocations to be taken forward and if any application was made for educational use on the site it would need to be considered on its own merits. Furthermore, although the two preferred sites are not free of constraints, they do not appear to be in close proximity to a neighbouring village or lie within an AGLV, Green Wedge or be bisected by a popular long distance footpath.

¹² 'Planning for Growth' Statement by the Minister of State for Decentralisation

¹³ Exmouth Evaluation of Potential Strategic Allocations 2010

54. It is evident from the strategic allocations report and the emerging LP that additional housing, in the form of urban extensions, are necessary to meet the needs of Exmouth. However, the inclusion of the appeal site within this report does not convey any tacit approval. The development plan process is the appropriate mechanism for considering the preferred choice of sites. These documents do not lend weight to the case for releasing the appeal site.
55. Some interested parties have expressed concerns that the proposal would undermine the Council's plan-making process and deny the local community the opportunity of determining its preferred choice of housing within the Exmouth area. One of the LPA's witnesses also alluded to this as part of his evidence. However, the Council eventually informed me that its case did not raise any issues of 'prematurity' in respect of the emerging LP. On behalf of the appellant, it was also argued that the proposal was not strategic in scale and there would be ample choice for the local community to determine where the future growth of Exmouth should take place. The concerns of interested parties on this matter would not be a sound basis for withholding permission.
56. I conclude on the second main issue that there is a shortfall in deliverable housing land across the District as a whole. When taking a disaggregated approach, there is no such shortfall in respect of the 'rest of East Devon'. However, there is nothing of substance to show that the proposal would undermine or harm the housing objectives and spatial vision for East Devon, including the emerging spatial vision.

Setting of Heritage Assets

57. Both main parties have undertaken detailed assessments, using guidance produced by English Heritage¹⁴, of the likely impact of the scheme upon heritage assets. As a consequence, there is much agreement between the main parties on this issue. At the Inquiry, the LPA also informed me that the impact upon the setting of Courtlands House would not be adequate justification for withholding permission.
58. Courtlands House is a large colourwashed stuccoed house, parts of which date from the 18th century or maybe earlier. Although accessed from Courtlands Lane to the north, this building appears to have been designed so that it gradually reveals itself along the entrance drive and in effect, 'turns its back' on this lane. The appeal site and other agricultural land to the north were not important elements in the designed setting of this house which sits within a country estate. The main and historic designed views to and from this building are to the south and west across the open fields and the Exe Estuary. There are no important or significant views of this building from Courtlands Lane.
59. The proposal would not affect the extensive vistas to the south and south west of Courtlands House. I agree with both main parties that the loss of open fields to the north of this building and the construction of a sizeable housing estate alongside would have only a minor adverse impact upon the setting of this listed house and a negligible adverse impact upon the overall significance of this heritage asset. This would not justify withholding permission.
60. The roadside boundary to Courtlands House is defined by a stone and brick garden wall. The Grade II listed part of this wall comprises the 8 ft high, crenellated, 19th century section. This is limited to the Courtlands Lane

¹⁴ The Setting of Heritage Assets (2011)

boundary of the house and grounds. Whilst setting is not in itself a heritage asset, the fields which make up the appeal site are an integral part of the agricultural landscape which lies immediately to the north of this wall. These contribute to the significance of this wall as a strong visual boundary and an impressive means of enclosure to this country estate.

61. On behalf of the appellant, the proposal is described as likely to have a moderate adverse impact on this boundary wall and a minor adverse impact upon its overall significance. However, I agree with the LPA that replacing open fields with a suburban housing estate in such close proximity to this wall would considerably erode its setting and undermine the function and significance of this heritage asset. The conspicuous and prominent siting of some of the proposed dwellings would also diminish the imposing nature of the wall when travelling along Courtlands Lane. The proposal would harm the setting of this heritage asset and have much more than a minor adverse impact upon its significance. This would conflict with SP policy CO7 and LP policy EN9.
62. I note the concerns of some interested parties, including the National Trust, regarding the impact upon the setting of other nearby listed buildings, including the Grade I listed A La Ronde, the Grade II registered Historic Park and Garden at A La Ronde and The Point-In-View, as well as the Grade II listed St. Peter's School. I viewed these in relation to the appeal site during my site visits. These heritage assets are a considerable distance from the appeal site and the topography, including intervening vegetation, would ensure that the proposals would not harm their settings.
63. I conclude on the third main issue that the proposals would harm the setting of the Grade II listed boundary wall to Courtlands House.

Nature Conservation

64. Section 40 of the Natural Environment & Rural Communities Act 2006 provides that regard must be given to the purpose of conserving biodiversity. National¹⁵ policies/advice and the development plan¹⁶ also require development proposals to avoid or mitigate any adverse impacts upon sites that are recognised for their national and international importance for wildlife.
65. The site is within 400 metres of the Exe Estuary SPA, Site of Special Scientific Interest (SSSI) and Ramsar site. This area supports internationally important populations of wintering waterbirds. The site is also less than 2.5km from the East Devon Heaths SPA, East Devon Pebblebed Heaths Special Area of Conservation (SAC) and SSSI, which is noted for its rare and vulnerable specialist heathland wildlife, and is within 3.1km of the Dawlish Warren SAC.
66. Surveys undertaken by the RSPB in 2009, 2010 and 2011 have recorded a breeding territory for Cirl Bunting within the vicinity of the appeal site. Some local residents have also reported sightings of lapwings in the site. The proposal is not directly connected with or necessary to the management of the above Natura 2000 and Ramsar sites. It has the potential to result in the loss of habitat, particularly those used by Cirl Buntings for breeding and foraging. I also agree with Natural England that in combination with other residential schemes within the wider surroundings, the proposal has the potential to result

¹⁵ Circular 06/2005 'Biodiversity and Geological Conservation – Statutory Obligations and their impact within the planning system' and PPS9 'Biodiversity and Geological Conservation'

¹⁶ SP policy CO10 and LP policy EN4

in increased recreational activity/pressure within these protected sites. If this were to arise, it could have a significant effect on rare and vulnerable sites which have been designated for their nature conservation importance.

67. The appellant's Appropriate Assessment Considerations report and Addendum thereto, take into account the comments of Natural England and the RSPB. It also recognises the interim approach to assessing development proposals that has been devised by the local planning authorities bordering the Exe Estuary, Natural England, the RSPB and the Exe Estuary Management Partnership. In essence, financial contributions are sought to finance a range of mitigation measures to avoid any significant adverse effects on the integrity of protected sites. These include the provision of Suitable Alternative Natural Green Space to draw recreational pressure away from the Exe Estuary. The RSPB has also informed me that it is engaged in discussions with a local landowner over the possibility of managing some neighbouring farmland in a manner that would be conducive to supporting Cirl Buntings.
68. The planning obligation (agreement) would include a 'Cirl Bunting Contribution' (£61,475) towards the provision and maintenance of a habitat for this protected species within the vicinity of the site. In addition, there would be a 'Habitats Regulations Contribution' of £350/dwelling towards the provision and improvement of measures to reduce the potential cumulative impact upon the SPAs or SACs. There would also be provision for an 'On-Site Biodiversity Management Plan' to provide and maintain areas for encouraging biodiversity.
69. I agree with the LPA, the appellant, Natural England and the RSPB, that these provisions of the planning obligation would all be required to avoid harming protected species, mitigate any significant effects upon the integrity of the nearby sites of national and international importance, as well as conserving biodiversity. These provisions are necessary to make the development acceptable in planning terms, are directly related to the proposal and fairly and reasonably relate in scale and kind to the development. They accord with the tests I have noted in paragraph 10 above. I am therefore able to take them into account in determining this appeal.
70. Whilst some trees and limited sections of hedgerow would be lost as part of the proposals this would be unlikely to result in any significant impact upon other wildlife interests. The reserved matters would also include substantial new/replacement planting.
71. I conclude on the fourth main issue that the proposal would be unlikely to have any harmful effect upon nature conservation interests.

Recreational Provision

72. The revised layout plan that I have noted in paragraph 6 above does not show any play areas within the site for use by residents of the proposed dwellings. Instead, two Local Areas for Play (LAPs) and one Locally Equipped Area for Play (LEAP) are shown on the layout plan which accompanies the planning obligation (agreement) that was submitted at the Inquiry. This tends to support the LPA's argument that these have been introduced as an 'after thought' rather than being considered from the outset of the design process.
73. However, I note that the scheme was advanced following a meeting with officers from the LPA. Whilst I have been informed that neither party took minutes of this meeting, it was open to the LPA to request such information

- within the prescribed period for determining the application. The appellant would have been aware of the need to provide these play areas as part of the development and it is unlikely that such matters would not have been in the mind of the designer when formulating the layout plan.
74. The LPA is unconcerned over the quantum of space but has expressed concerns over its form and quality and has identified conflict with LP policy RE3. Paragraph 9.20 of the supporting text to this policy includes a requirement for LAPs to have seating areas for carers, include a buffer zone to adjacent houses and be very readily accessible, within one minute's walk of users homes.
75. One of the proposed LAPs would be centrally located within the site and would be overlooked from some of the surrounding dwellings. There would also be some overlooking of the LAP that is shown towards the south western corner of the site from some of the houses alongside. Both of these spaces would be within a one minute walk of users homes and the LAP near the south western corner of the site would also be immediately adjacent to a footway/cycleway that runs through the site. It would be possible to provide a landscape buffer to adjacent houses and seating area for carers. Whilst the LPA may not wish to adopt these LAPs, they would accord with the provisions of LP policy RE3.
76. Paragraph 9.21 of the supporting text provides, amongst other things, that a LEAP should include a buffer zone of at least 20 metres from adjacent houses and should be within five minutes walking times of users homes. The proposed LEAP would be 20 metres from the nearest proposed dwellings (plots 37, 44, 47 and 48) and within five minutes walking time of most of the dwellings. However, its location towards the north eastern corner of the site could result in some residents with small children taking slightly longer to access this play facility. Although not ideal, on balance, the LEAP would accord with the objectives of LP policy RE3. The scheme would also accord with national policies relating to recreation¹⁷.
77. The LPA has argued that the LEAP should be more centrally located and closer to community facilities. However, it would be overlooked from some of the neighbouring houses and in all likelihood, it would be well-used by incoming residents. Whilst the Council has implied that this facility would be at odds with guidance¹⁸ produced by Play England, it has not provided any relevant extracts to support its assertions. Whilst Play England has an important role in ensuring young people have access to local play provision and play space, I would be surprised if its guidance was intended to be rigidly applied.
78. The off-site recreational provision which forms part of the planning obligation (agreement) includes a financial contribution (£1,459.12/dwelling) towards improving the tennis courts in Phear Park Exmouth, including a multi-use court for basketball, netball and soccer, or floodlighting a pitch at Exmouth Rugby Club, or athletic jump pits at Exmouth Community College, or all weather sports facilities at Exmouth Football Club, or improvements to Exmouth Cricket Club or an improved cycleway trail between the site and the NCN 2.
79. Whilst all of the above projects are laudable, other than the plan to link the site with NCN 2 it is doubtful whether contributions towards these other recreational facilities would be directly related to the development and

¹⁷ Planning Policy Guidance Note 17 'Sport and Recreation'

¹⁸ Design for Play: A guide to creating successful spaces

necessary to enable it to proceed. Although Phear Park is a public park it is unclear to me what harm would arise to this facility if the development was to proceed and how any such harm would be remedied by financial contributions. These aspects of the obligation would be at odds with the tests I have noted in paragraph 10 above. I am unable therefore to take them into account.

80. However, using the contributions towards the cycle link would be necessary to assist in reducing the need to travel by car and would meet some of the recreational needs of residents. It would be directly related to the development and fairly and reasonably related in scale and kind. I have therefore taken this element of the obligation into account.
81. I conclude on the fifth main issue that the scheme would include adequate provision to meet the recreational needs of residents of the proposed dwellings.

Other Matters

82. Some of the highway concerns raised by interested parties were illustrated in Mr Mildenhall's video which was shown at the Inquiry. I have no doubts that at certain times of the day, especially during the summer months, users of the narrow country lanes in and around Lympstone face difficulties when encountering oncoming motor vehicles. However, the proposed development would include a new access onto the A376 and the amended layout would have a one way access into the site from Courtlands Lane. This would prevent motor vehicles from the site using this lane. It would also allow those who already use Courtlands Lane to either access the A376 via Courtlands Cross, as at present, or travel through the site and enter the main road via the new junction. The traffic control measures contained within the planning obligation (unilateral undertaking) would assist in securing this and would accord with the tests I have noted in paragraph 10 above. Four new passing bays would also be provided along Courtlands Lane. This would allow traffic to pass more easily along this part of the local highway network.
83. The proposal would also extend the footway along the northern section of the A376 to allow residents of the site to access the bus services along this main road. A new cycle way would be provided within the site and, as I have noted above, the planning obligation (agreement) would facilitate off site access to NCN 2. This agreement would also include provision for a Travel Plan to encourage incoming residents to travel by public transport, bicycle or on foot rather than by car. Residents would also be able to access Lympstone, including the train station, via the East Devon Way. The LPA and Highway Authority agree that in transport terms the site is in a sustainable location.
84. There would inevitably be some increase in vehicular traffic into Lympstone and along some other sections of the minor road network. However, the Highway Authority, having also considered the appellant's detailed Transport Assessment, is content that the scheme would not have any detrimental impact on the local road network or pose a significant risk to highway safety interests. Whilst I do not set aside lightly the concerns of those who are very familiar with the local highway network, there is no technical evidence to refute the findings of the appellant's transport consultants. On balance, the appellant's arguments on highway matters are more convincing.
85. Many residents of the proposed dwellings would be children. The number of pupils on the school roll at Lympstone C of E Primary School exceeds capacity,

- as do the numbers of pupils on the school roll at Exmouth Community College. Some children from the development would be likely to attend these establishments. If this were to arise, it could harm the quality of education provision within the area.
86. The financial contributions contained within the planning obligation (agreement) are based on a formula that includes Department for Education Cash Multiplier Rates for extensions to existing educational sites, with a separate allowance for ICT. The County Council's representative informed me that additional educational provision could be accommodated at both sites, although for Lympstone C of E Primary School it would compromise play area. Whilst this would be most unfortunate, greater harm would ensue if the school was forced to accommodate a sizeable influx of children without adequate classrooms. The proposed contributions would be necessary to limit harm to the quality of local education. This is directly related to the development and fairly and reasonably related in scale and kind. It meets the tests I have noted above in paragraph 10. I am therefore able to take them into account.
87. The provisions within the planning obligation (unilateral undertaking) for a free school bus service to other primary schools in Exmouth could be of benefit if children were to attend other schools. However, it has not been proven that this is necessary for the development to proceed and I note that it is not required by the Education Authority. This would not meet the tests I have noted above in paragraph 10. I am unable therefore to take it into account.
88. The proposal would entail the loss of grades 2 and 3a agricultural land. As set out in PPS7¹⁹ the presence of best and most versatile land should be taken into account alongside other sustainability considerations, including the quality and character of the landscape, when determining planning applications. I note the appellant's arguments that the site does not form part of a larger agricultural holding and has "*not performed a historic food production function*".
89. Nevertheless, the appeal site could make a small, but important contribution towards meeting Government objectives for guaranteeing the security of food supply. Notwithstanding that the LPA's preferred options for the future growth of Exmouth include grade 2 and 3 agricultural land, the irreversible loss of best and most versatile agricultural land weighs against the sustainability credentials of the proposal. Whilst my decision does not turn on this matter, this adds some limited weight to the arguments for withholding permission.
90. The application was accompanied by a detailed flood risk assessment and an investigation into the geology and hydrology of the site. On behalf of the appellant, I was informed that the concerns of a neighbouring landowner in respect of surface water drainage had been considered and would form part of the reserved matters. Neither the Environment Agency nor the water company have objected to the scheme. Both main parties agree that a planning condition could be attached to an approval requiring the submission of drainage details. The proposal would be unlikely to increase the risk of flooding or pollute existing watercourses or water supplies.
91. The proposed houses would be sited and could be designed so as to avoid any serious overlooking of existing properties along Courtlands Lane. The road layout would also be designed so that traffic would not cause any serious noise

¹⁹ Sustainable Development in Rural Areas

- disturbance for neighbouring residents. Whilst the outlook from properties along the northern side of Courtlands Lane would change, the new buildings would be sited to avoid any overbearing impact upon those living alongside.
92. The loss of some private views across part of the site would be insufficient grounds for withholding permission. Whilst there is likely to be considerable noise disturbance during the construction phase, this would be temporary in nature. A planning condition could be attached to an approval requiring the submission of a Construction Method Statement to limit harm.
93. The planning obligation (unilateral undertaking) also includes provision for retaining and maintaining the hedge alongside the A376. This has not been requested by either the LPA or the Highway Authority and is not necessary to enable the development to proceed. This would not meet the tests referred to in paragraph 10 above. I am unable therefore to take it into account.
94. In addition to the Parish Plan that I have noted above, Lympstone Parish Council is also in the process of producing a new Neighbourhood Plan. It is clear to me that very many parishioners are prepared to meet the housing needs of the local community whilst safeguarding the valued Green Wedge. The Parish Council may well be right that this is the sort of community that the Government envisages as fulfilling its 'Big Society' and 'Localism' policies.
95. Local opposition or support for a proposal is not in itself a ground for refusing planning permission. Nevertheless, I am mindful of the overwhelming, if not unanimous, opposition to the scheme. Some of these concerns are founded upon valid planning reasons. I also understand the analogy drawn by the Parish Council regarding the appeal scheme and remarks attributed to the Prime Minister on 8 January 2012, in respect of development in the countryside and a "*great big housing estate being plonked down from above*". However, even if accurate, these remarks do not carry the same weight as the written Ministerial Statement I have noted above.

Planning Balance

96. I have found that there is a shortfall in deliverable housing land across the District. There is also nothing to show that the proposal would undermine or harm the housing objectives and spatial vision for East Devon. In addition, the benefits of the scheme, including delivering affordable housing and business premises/employment are considerable. These benefits outweigh the harm to heritage assets that I have identified and, as a consequence, there would be no conflict with the provisions of PPS5²⁰. This would also be sufficient to outweigh the harm that I have identified in respect of the loss of some of the best and most versatile agricultural land. However, I have also found in respect of the first main issue that this is not a suitable site for housing. When the serious harm that I have identified to the character and appearance of the area is weighed with these other considerations the balance tips against an approval.

Overall Conclusion

97. Given all of the above, I conclude that the appeal should not succeed.

Neil Pope
Inspector

²⁰ Planning for the Historic Environment

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr R Clarke of Counsel	Instructed by the Solicitor to East Devon District Council
<i>He called</i>	
Mr M Dickens MRTPI	Planning Policy Manager
Mr N Blackmore BSc (Hons), CMLI	Principal Landscape Architect
Mr A Breckon MRTPI	Senior Planning Officer
Mr S Guy IHBC	Principal Conservation Officer
Mr A Seddon	Solicitor to the Council (<i>Spoke in respect of the Planning Obligations</i>)

FOR THE APPELLANT:

Mr D Corsellis	c/o Stephens Scown Solicitors
<i>He called</i>	
Mrs S Planton Dip LA, CMLI	Principal Landscape Architect and Regional Manager, SLR Consulting Ltd
Mr R Morton BA (Hons), MIfA	Consultancy Project Manager, Cotswold Archaeology
Mr D Seaton MRTPI	PCL Planning
Mr C Morrison	Parsons Brinckerhoff (<i>Spoke in respect of the ecology contributions in the planning obligation</i>)

INTERESTED PERSONS:

Cllr B Ingham	Ward Member, East Devon District Council
Cllr T Dumper	Member of Exmouth Town Council but not appearing on behalf of the Town Council.
Cllr R Eastley	Member of Lympstone Parish Council
Cllr D G Atkins	Ward Member, East Devon District Council and member of Lympstone Parish Council
Cllr R Longhurst	Member of Lympstone Parish Council
Mr D Mildenhall	Local resident and appearing on behalf of Lympstone Parish Council

Ms H Dimond BA, MPhil, Dip Hist Con, IHBC, MRTPI (rtd)	Local resident and appearing on behalf of Lympstone Parish Council
Mr M Robertson	Residents of Courtlands Lane and other users of the local amenity provided by the fields
Mr S Niles	Devon County Council (<i>Education</i>)
Mr Z Schuller	Devon County Council (<i>Transport</i>)
Ms A Newsome	Natural England
Mr G Bloomfeld	RSPB

LIST OF DOCUMENTS SUBMITTED AT THE INQUIRY

Document 1	Opening Submissions on behalf of the appellant.
Document 2	Drawing No. 10780 L 01.05 Rev C 'Proposed Open Space Areas'.
Document 3	Drawing No. 10780 L 01.04 Rev P5 'Masterplan' scale A0.
Document 4	Structure Plan policy CO5.
Document 5	Local Plan policy TA8 and extract from Local Plan Proposals Map.
Document 6	Appeal decision Ref. APP/U1105/A/11/2156973.
Document 7	Statement made by Cllr Ingham.
Document 8	Statement made by Cllr Dumper.
Document 9	Statement made by Cllr Eastley
Document 10	Statement made by Cllr Atkins.
Document 11	Cllr Longhurst's Statement and Appendices.
Document 12	Map submitted by Cllr Longhurst showing public vantage points.
Document 13	Statement made by Ms Dimond.
Document 14	Mr Mildenhall's speaking notes.
Document 15	Statement made by Mr Robertson.
Document 16	Rebuttal to Mr Mildenhall's evidence.
Document 17	Extract from the Landscape Institute's and Institute of Environmental Management and Assessment's Guidelines for Landscape and Visual Impact Assessment.
Document 18	Accessibility Plan.
Document 19	Additional photographs to Mr Blackmore's proof of evidence.
Document 20	Amended Viewpoint 1 to Mr Blackmore's proof
Document 21	List of suggested planning conditions.
Document 22	Planning Obligation (Agreement) dated 26 January 2012.
Document 23	Affordable housing completions in East Devon.
Document 24	Extracts from Structure Plan Explanatory Memorandum.
Document 25	Advertisement details regarding Plumb Park.
Document 26	Addendum to Appropriate Assessment Considerations.
Document 27	Letter from Mrs Leigh.
Document 28	Planning Obligation (Unilateral Undertaking).
Document 29	Maps showing public views from the appeal site and Cranbrook.
Document 30	Plan showing distances from nearest dwellings to LEAP.
Document 31	The LPA's closing submissions.
Document 32	The appellant's closing submissions.
Document 33	The appellant's cost application.
Document 34	The LPA's response to the costs application.
Document 35	Mr Mildenhall's video (local highway network).



Appeal Decision

Site visit made on 7 January 2013

by **G M Hollington MA, BPhil, MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 23 January 2013

Appeal Ref: APP/U1105/A/12/2182173

Land to the north of Coreway, Sidford, Sidmouth, EX10 9SD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr A Moore against the decision of East Devon District Council.
 - The application Ref. 12/1276/FUL, dated 1 June 2012, was refused by notice dated 17 August 2012.
 - The development proposed is erection of three dwellings, landscaping, access enhancements and associated works.
-

Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by Mr A Moore against East Devon District Council. This application is the subject of a separate Decision.

Procedural Matters

3. The Council has withdrawn part of the first reason for which planning permission was refused, relating to the supply of housing land, as a recent appeal decision elsewhere in the District found the supply was deficient. I consider this matter further in paragraph 14.
4. Since making the appeal, the appellant has submitted a section 106 unilateral undertaking which would ensure the making of a financial contribution "to the Council's costs of maintaining open space provision in the area". However, the lack of such an obligation was not a reason for refusing planning permission and the justification for the payment and how it would be used have not been explained.
5. As it has not been demonstrated that the obligation would meet the tests of regulation 122 of the Community Infrastructure Levy Regulations 2010 and paragraph 204 of the National Planning Policy Framework (the Framework), I am unable to take it into account in my decision.

Main Issues

6. The main issues are:
 - (a) the effects of the proposed development on the character and appearance of the surrounding area; and

- (b) whether any conflict with policy or other harm would be outweighed by other material considerations, with particular reference to housing land.

Reasons

(a) Character & Appearance

7. The appeal site is in the East Devon Area of Outstanding Natural Beauty (AONB), on the edge of the built-up area of Sidmouth and Sidford. The Framework gives great weight to conserving landscape and scenic beauty in AONBs. In accordance with this are Structure Plan¹ policy CO3 and Local Plan² policy EN1. The intrinsic character and beauty of the countryside in general are also recognised by the Framework and the countryside is protected by Structure Plan policy ST1 and Local Plan policy S5. Structure Plan policy ST5 strictly controls development in the open countryside (Structure Plan policies ST16 and ST17 are of less relevance in this respect).
8. The proposed development would occupy approximately the lower, southern half of a field on the lower slopes of Core Hill, a prominent local landscape feature. The site is bordered by countryside to the west and by low density residential development to the east and on lower ground to the south. The proposed houses would rise well above the existing boundary hedge and dwellings to the south.
9. The intended use of sedum green roofs and the partial cutting into the slope of the houses would help to mitigate the impact of the proposed development in the longer distance views from which the site is most clearly seen, i.e. from the east and south-east. From such distances, the site is a relatively small area of land which is seen in the context of the broader landscape and the extensive built-up area of Sidmouth and Sidford. Nevertheless, because of its elevation, the site is not discreetly located; it is distinguishable and the proposal would extend development further up the hill slopes beyond the residential area, harming the landscape of the AONB.
10. Views from other quarters tend to be restricted by the topography and/or vegetation so that, even from nearby public viewpoints to the west/south-west, little other than the highest parts of the roofs would be likely to be visible. On the other hand, there would be a clear public view from nearby, i.e. the access to the field from the corner of Coreway and Elm Way.
11. From here, the field is seen in the foreground, rising to the higher slopes of Core Hill beyond. The introduction of development would be damaging to the rural character of this land on the edge of the built-up area and detrimental to the landscape of the AONB.
12. I have had regard to the appellant's comprehensive Landscape & Visual Impact Assessment but, as this acknowledges, a combination of objective and subjective judgements is necessary. In my opinion, the impact of the development in long distance views would not be great, but it would still have an adverse effect. From close quarters, the damage seen to the AONB would be significant and difficult to overcome through new planting. While a development would be less intrusive in this location than away from a built-up

¹ Devon Structure Plan 2001 to 2016

² East Devon Local Plan 1995 to 2011

area, it would be an encroachment into the countryside resulting in the loss of its intrinsic character.

13. My conclusion on this issue, therefore, is that the proposed development would unacceptably harm the character and appearance of the surrounding area. It would conflict with the aims of policies CO3, ST1, EN1 and S5 and the relevant aims of the Framework.

(b) Whether Any Harm Outweighed

14. In a recent appeal decision³, the Inspector concluded there is a shortfall in the five-year supply of housing land within the District in relation to the requirements of both the Structure Plan and, to a greater extent, of the former Secretary of State's Proposed Changes to the draft Regional Spatial Strategy for the South West and the 2008 CLG projections. The main parties to that appeal agreed that in the District there had been an under-supply of housing in eight of the last ten years and the Council accepted the emerging Local Plan could be given only limited weight.
15. In such circumstances, the advice of the Framework where a development plan is absent, silent or relevant policies are out-of-date is relevant. In accordance with the presumption in favour of sustainable development, planning permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits or specific policies in the Framework indicate development should be restricted – the latter include policies relating to AONBs.
16. The proposal is not a "major development" in the AONB, in respect of which the Framework states planning permission should be refused except in exceptional circumstances. Nevertheless, the Framework notes that AONBs have the highest status of protection in relation to landscape and scenic beauty and that valued landscapes should be protected and enhanced.
17. Sustainable development is defined by the Framework as having three dimensions: economic, social and environmental. The proposed development would make a modest contribution to the economic role through its construction and its occupiers' spending; it would also contribute to the social role as a result of providing a small amount of accommodation, in itself of an acceptable design, and in a location which is accessible to services and facilities. On the other hand, it would fail to fulfil the environmental role of contributing to protecting and enhancing our natural environment.
18. In view of the strength of protection which is given to AONBs and as the proposed development would neither protect nor enhance the landscape, my overall conclusion is that the harm to the environment would outweigh the modest economic and social benefits sufficiently to be unacceptable. The conflict with policy or other harm would not be outweighed by other material considerations, with particular reference to housing land.

(c) Other Matters

19. I have also taken into account all the other matters raised in the written representations, including a previous appeal decision on the appeal site,

³ Ref. APP/U1105/A/12/2180060 (Butts Road, Ottery St Mary)

planning permissions granted by the Council elsewhere in the AONB and residents' concerns about the safety of the access.

20. The previous appeal on the site was in 1997, regarding a single dwelling in the south-east corner of the field. The Inspector considered the building would be visible from its surroundings on this prominent site, but I have no details of the proposal or any mitigation and the policy context would have differed.
21. Circumstances vary from site to site and so each application for planning permission needs to be determined on its own merits. Coreway and Elm Way are only lightly used roads and I note that the highway authority has no objection. Neither these nor any of the other matters outweigh the conclusions I have reached on the main issues.

G M Hollington

INSPECTOR

Agenda Item 12

Overview and Scrutiny Committee

28 March 2013



Overview and Scrutiny Committee

Forward Plan 2012/13

Date of Committee	Report	Lead Officer
25 April 2013	<ul style="list-style-type: none">Update from Sustainable Homes and Communities Portfolio HolderCIL TaFF reportHealth and Social Care Reforms – role for Overview and ScrutinyDraft Overview and Scrutiny Annual Report	Cllr Jill Elson Cllr Graham Troman Debbie Meakin Debbie Meakin
6 June 2013	<ul style="list-style-type: none">Reviewing the general terms of reference for working parties and task and finish forums	Debbie Meakin

Topics for scoping and allocation to the Forward Plan:

- Updates from Portfolio Holders
- Youth service provision
- Flooding – partner agencies
- Flooding pollution – impact on beaches
- Police Area Commander visit
- Local Plan production (moved to take into account staffing resources on the current Local Plan process)
- Planning enforcement resource & workload update

Task and Finish Forums Update

- Business TaFF next meeting 16 April 2013 at 6pm, Council Chamber.
- Fees and Charges started 22 March 2013.
- HRB have begun a Grounds Maintenance TaFF.