



Appeal Decision

Hearing Held on 3 November 2021

Site Visit made on 2 and 3 November 2021

by Rachael Pipkin BA (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21/01/2022

Appeal Ref: APP/Y1110/W/20/3265253

Land at Pennsylvania Road, Exeter EX4 5BL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Land Allocation Ltd against the decision of Exeter City Council.
 - The application Ref 20/0596/OUT, dated 15 May 2020, was refused by notice dated 26 August 2020.
 - The development proposed is outline application including access, with all other matters reserved, for up to 26 (maximum) residential dwellings.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Exeter City Council against Land Allocation Ltd.
3. An application for costs was made by Land Allocation Ltd against Exeter City Council. These applications are the subject of separate Decisions.

Preliminary Matters

4. The original application was made in outline with only access to be determined at this stage. All other matters were reserved for future determination. I have had regard to the existing and proposed site plans and the indicative layout of the proposed development as shown in these drawings, but have regarded all elements of these drawings as indicative apart from the details of the access.
5. The Council's third reason for refusal set out that, in the absence of sufficient highway information, the Council was unable to confirm that the scheme would meet highway safety standards in terms of pedestrian access to and from the site onto the existing highway network. Since planning permission was refused, the appellant has sought to address this reason for refusal and submitted a revised highway scheme¹.
6. The revised scheme proposed a signalised shuttle arrangement on Pennsylvania Road between Stoke Valley Road and Whitethorn Park. This proposed to restrict traffic movements between these roads to single lane,

¹ Newell Edwards Technical Note dated 13 October 2021

provide traffic calming and facilitate the installation of a footpath on one side of Pennsylvania Road.

7. The Procedural Guide – Planning Appeals –England makes clear that if an applicant thinks that amending their application proposals will overcome the local authority's reasons for refusal they should normally make a fresh planning application. Furthermore, the appeal process should not be used to evolve a scheme and it is important that what is considered is essentially the same as that on which the local planning authority took their decision and on which the views of interested people were sought.
8. The Council has confirmed that the local highway authority, Devon County Council, was consulted on the revised highway scheme but that there was no wider consultation. The proposals would introduce significant changes which would directly affect properties with access onto this stretch of Pennsylvania Road. Notwithstanding that the revised highway scheme was discussed at the Hearing, it was evident from those interested parties present that they were unfamiliar with what was being proposed and had concerns about it.
9. I have had regard to the 'Wheatcroft' principles including whether amendments would materially alter the nature of the application and whether anyone who should have been consulted on the changed development would be deprived of that opportunity. I have come to the conclusion that they would. I have therefore proceeded to base my decision on the proposals before the Council when it made its decision.
10. The scheme originally proposed pedestrian access from the site onto the adjacent bridleway, a public right of way, with improvements to this route including street lighting to provide a link to Stoke Valley Road. Due to issues around land ownership which would prevent the required upgrade to this pedestrian link, the scheme was subsequently amended to provide an alternative pedestrian route in the form of a footpath along Pennsylvania Road connecting the site to Stoke Valley Road.
11. At the Hearing it emerged that amendments made to the original highway scheme during the planning application process, as set out on drawing numbered 60600165-60-4, had only been seen by the local highways authority and had not formed part of a wider consultation. However, it is evident that these drawings were before the Council at the time it made its decision. Furthermore, they were submitted with the appeal which was subject to consultation. I am therefore satisfied that interested parties have had the opportunity to comment on these. I have therefore taken them into account in my decision.
12. The Council published a revised Five Year Housing Land Supply Statement (HLSS) in September 2021 with a base date of 1 April 2021. This was submitted as evidence in advance of the hearing, the appellant had the opportunity to respond and did so.
13. Following the Hearing, the Council updated its five year housing land supply with a revised base date of 6 September 2021. This late evidence was submitted and the appellant was given the opportunity to respond. On the basis of the information submitted, I was satisfied that I did not need to re-open the hearing. I return to this matter later in my decision.

14. On 14 January 2022 the Government published the Housing Delivery Test (HDT) Results for 2021. I did not need to refer back to the parties on this matter as the HDT score for the authority would not materially alter the position as presented to the Hearing.
15. A copy of a completed signed planning obligation by way of a Unilateral Undertaking (UU) under Section 106 of the Town and Country Planning Act 1990 (as amended) dated 21 April 2021 was submitted during the course of the appeal. This sought to secure affordable housing, contributions to primary healthcare, education provision (early years, primary and secondary) and provision and management of public open space.
16. The Council advised that the completed UU sought provisions that were not required in relation to healthcare, early years and primary education and not in accordance with policy in respect of affordable housing provision. In response to this, an executed Deed of Revocation dated 19 November 2021 which revokes the UU dated 21 April 2021 has been submitted. This is signed by the Council as the local planning authority, Devon County Council as the education authority and the appellant.
17. A further UU was submitted after the hearing which secures the provision of affordable housing, secondary education provision and public open space. This is signed and dated 17 November 2021.

Main Issues

18. The main issues are:

- the effect of the proposed development on the character and appearance of the area;
- the effect of the proposed development on biodiversity;
- whether or not the proposed development would provide safe access for pedestrians to and from the highway; and
- whether there are any material considerations which mean that the decision should be made otherwise than in accordance with the development plan.

Reasons

Planning Policy Context

19. The development plan includes the 'saved' policies from the Exeter Local Plan First Review 2005 (the LP) and the Exeter City Council Core Strategy 2012 (the CS). My attention has been drawn to Policies CP1, CP3 and CP16 of the CS and Policies H1, LS1 and LS4 of the LP as being the most important policies for the determination of the application.
20. Policies CP1 and CP3 relate to housing delivery. They set a minimum requirement for housing to be provided in the plan period to 2026 and how it will be addressed through the supply of sites from various sources. Due to the age of the plan, the Council is now relying on its local housing needs assessment to calculate its housing requirement rather than that set out within the plan. Consequently, whilst these policies are relevant, they are not

development management policies that play a significant role in determining planning applications. They are not therefore the most important policies.

21. Policy H1 sets out the Council's approach to the delivery of housing based on a sequential approach which promotes the use of previously developed land (PDL) first. This is therefore one of the most important policies. Whilst there are some differences in wording, the National Planning Policy Framework (the Framework) supports such an approach in seeking to make as much use as possible of PDL. The policy is therefore consistent with the Framework and not out-of-date.
22. Policy LS1 seeks to protect the landscape setting of the city by restricting development within that setting. This is one of the most important policies. However, as this policy constrains housing delivery in a manner inconsistent with the approach advocated in the Framework it is out of date. This is consistent with the view taken by the Inspector² in the appeal at Land to the west of Clyst Road, Topsham and, in view of this decision, not disputed by the Council.
23. Policy CP16 seeks to protect the character and local distinctiveness of certain areas around the city. Like LS1, it is therefore one of the most important policies. However, unlike Policy LS1 it does not place restrictions on the type of development that would be permitted. The protection of valued landscapes is supported by the Framework and the policy is therefore not inconsistent. It therefore carries full weight.
24. Policy LS4 seeks to protect sites of nature conservation interest. As the appeal site is designated as a site of local interest for nature conservation (SLINC), this policy is one of the most important policies. In terms of its approach, the policy applies a balanced approach to development, requiring the need for the development to outweigh nature conservation considerations, minimise any damage and provide appropriate mitigation or compensation. Whilst the wording of the policy is different from the Framework, the approach is aligned, and I do not find it to be inconsistent. It is therefore not out of date.
25. In addition to those referred to above, I consider that Policy DG1 of the LP and CP9 of the CS referred to in the Council's decision notice are also most important policies. Policy DG1 requires effective connectivity between existing and proposed development and putting people before traffic and improvements. Policy CP9, whilst focussed on strategic transport measures, also requires additional development to include improvements to facilities for pedestrians. These policies are broadly consistent with the Framework and are not therefore out of date.
26. Policy CP7 of the CS which relates to affordable housing is also one of the most important policies. This seeks 35 per cent affordable housing on sites capable of providing three or more additional dwellings, subject to viability. This policy does not accord with paragraph 64 of the Framework and therefore is out-of-date.
27. I have therefore determined that the most important policies to this application proposal are Policies CP7, CP9 and CP16 of the CS and Policies H1, LS1, LS4 and DG1 of the LP. I have found that two out of the seven most

² APP/Y1110/W/18/3202635

important policies area out-of-date. However, a consideration of whether the 'basket' itself is out-of-date and therefore whether the appeal scheme complies with the development plan as a whole is a matter to which I will return in my final conclusions.

Character and appearance

28. The appeal site is an area of pastureland of approximately 1.1 hectares. It is located on the eastern side of Pennsylvania Road and to the north of the built-up area along Stoke Valley Road, from which it is separated by a belt of mature trees. These trees contain the extent of development, forming a clearly defined boundary between the substantively built-up area and the open countryside beyond. Immediately to the south of the site, there is a pair of semi-detached properties on Whitethorn Park. Other dispersed development including some very limited residential development lies on the opposite side of a bridleway that runs along the eastern edge of the site.
29. The site is undulating with a distinctive north to south slope. It is largely enclosed on three sides by existing mature hedgerow with its southern boundary more open towards the development along Whitethorn Way. Despite its proximity to the urban area and the suburban housing development beyond the tree belt, the site is strongly rural to the extent that the city is not easily perceptible when one is within the site itself or just outside it.
30. The surrounding area is characterised by rolling hills and valleys, with the Duryard Valley Park directly opposite the site on the western side of Pennsylvania Road. The landscape falls within the 'Exeter Slopes and Hills Landscape character Area' as defined in the Devon Landscape Character Assessment (LCA). This describes this area as comprising farmed and wooded slopes which provide a rural backdrop to the city. The views and woodland in close proximity to the city form a strong sense of place, with a strong rural character and increased sense of tranquillity. These undeveloped slopes, which include the appeal site, form part of the distinctive landscape setting to the city.
31. The site also lies within the landscape sub-area known as the 'Exeter Slopes and Hills' as defined in the more recent East Devon and Blackdown Hills Landscape Character Assessment 2019. This area is described as feeling elevated above surrounding areas, offering views across Exeter City. It reinforces the findings of the earlier LCA with regards to the area's strong rural and tranquil character.
32. The Exeter Fringes Landscape Sensitivity and Capacity Study 2007 (the LSCS) identifies the site as forming part of the land with Zone 3. This is a large area to the north of the city, described as comprising prominent hill and valley sides with high intrinsic sensitivity which forms a strong positive rural backcloth to the city. The appeal is a relatively small parcel of land within this wider area. However, it is in an elevated position to the city and adjacent valleys and visually prominent. Its strongly rural character beyond the natural boundary to the city formed by the belt of trees, make a positive contribution to the landscape setting of the city, characteristic of the wider zone.
33. The LSCS goes on to state that the development in this location would result in harm to the character and distinctiveness of the rural area. Whilst this

document is now some years old, there is no evidence that the important characteristics and features of the surrounding area have significantly changed since this study was undertaken. The LSCS therefore remains relevant.

34. The proposal would provide up to 26 dwellings which based on the indicative drawings are shown to be a combination of terraces and semi-detached properties laid out as a cul-de-sac positioned towards the southern side of the site.
35. The existing very limited development beyond the tree line is not prominent in distant views towards the appeal site and city edges, especially from Stoke Hill to the east. The introduction of up to 26 houses on the appeal site would fundamentally alter its rural character. It would appear as an anomalous form of development projecting beyond the clearly defined limits of the city and its natural boundary formed by the belt of trees. This would have an urbanising effect in a strongly rural context that would encroach into the open countryside and the sensitive and valued landscape setting of the city.
36. It has been argued that the visual effect of the scheme would be localised. I appreciate that the indicative layout locates the proposed houses on the southern slope of the site where it is argued that the sloping topography would provide some natural screening. Having viewed the site from the surrounding area, I cannot agree that the proposal would not be visible in longer distance view from the surrounding countryside. The topography of the site would not be able to fully screen the proposed development and its suburban character which would be visible. This would give rise to a substantial degree of harm to the character of the area and the sensitive landscape setting to the north of the city.
37. From within the city itself, there would be limited views of the proposed houses on the city skyline due to the treed boundary formed by the bridleway vegetation and the sloping topography of the site. Such views would likely be limited to rooftops beyond the tree line, and less visible during summer months when the trees would be in leaf. Nevertheless, it would erode the open and undeveloped character to the north of the city.
38. The site has a long frontage to Pennsylvania Road which is formed of a Devon hedge bank and a mature hedgerow. These are characteristic features of the area, forming the boundaries to fields and open land within the landscape and enclosing rural roads and lanes. They contribute to the rural character to the north of the city.
39. In order to provide an appropriate visibility splay at the access to the site, a 40 metre section of the hedge bank and hedgerow would be removed or relocated from the Pennsylvania Road frontage and a new road junction would be created. This would erode the rural character along this road, interrupting the continuous line of hedgerow which encloses the lane. Significant harm to the character and appearance of the area would arise from this.
40. The scheme, as a small housing estate set around a cul-de-sac would have a suburban character. This would not integrate with surrounding development and its largely rural character. In addition, the additional activity on the site in combination with light emitted from the development would further add to its intrusive nature in this rural location. Consequently, I find the scheme would

detract from the tranquillity of the area and the green setting of the city, extending the urban form into the open countryside in a manner that would be harmful.

41. The boundary vegetation and the natural undulations of the site would provide some screening in those immediate views of the site from both the bridleway and Pennsylvania Road. However, the removal of a significant section of hedge bank and hedgerow along the Pennsylvania Road frontage and the formation of a new vehicular access would provide views into the site and the urbanisation of the site would be apparent. I also do not consider the site topography would be sufficient to screen the development from views along the bridleway. This would be more apparent during winter months when leaf cover from boundary vegetation would be reduced.
42. The appeal site forms part of a SLINC which links with Duryard Valley Park, which is a Site of Nature Conservation Interest (SNCI). Whilst these designations are recognised within the appellant's Landscape and Visual Appraisal and the effect of the scheme on the Duryard Valley Park is considered, the report does not specifically assess the effect of the scheme on these designations and the character of the appeal site as a SLINC.
43. The introduction of a small housing estate within a SLINC and connected to a SNCI, would change the undeveloped and natural character of this area in terms of its being of interest for nature conservation. It is proposed that part of the site is left open and enhanced with planting for biodiversity which I discuss in more detail below. However, this would not overcome the harm that would arise from developing more than half the site with roads, housing and domestic gardens which would erode its natural character.
44. The importance of the countryside surrounding the city was recognised as requiring protection by an Inspector in dismissing an appeal³ for a much smaller development of a pair of semi-detached houses on land off Whitethorn Park. The policy context at the time was considerably more restrictive in terms of protection of the countryside. Nevertheless, I concur with the Inspector's findings that the trees along the bridleway form a logical limit to the urban area and that development beyond it would be harmful, representing a prominent encroachment into the adjoining open countryside, clearly visible from the surrounding area as well as approaches along Pennsylvania Road.
45. I conclude that the proposed development would significantly harm the character and appearance of the area. It would therefore conflict with Policy LS1 of the LP in so far as it requires proposals to maintain local distinctiveness and character and Policy CP16 of the CS which similarly seeks to protect the character and local distinctiveness of the hills to the north of the city.

Biodiversity

46. The appeal site is enclosed by hedgerows. These have been surveyed and assessed in accordance with the Hedgerow Regulations 1997. The assessment⁴ concluded that the hedgerows to the eastern and western boundaries of the site were species-rich, supporting a mix of native species and a number of trees. Due to their extent, connectivity and age, they are

³ APP/Y1110/A/92/214396/P4

⁴ Hazel Dormouse Nut Search Survey and Hedgerow Survey Report, March 2020 – Delta-Simons

- considered ecologically important. The hedgerows to the northern and southern boundaries were classified as 'not important' due to their age and being species-poor. The important hedgerows are located on a hedge bank.
47. Hedgerows can provide habitat for dormice which are a protected species. The appellant undertook a survey⁵ which confirmed their presence in hedgerows both on and adjacent to the site. The report recommended that the hedgerows bounding the site should be retained, protected and enhanced for dormice and other wildlife. Where the proposal would require the hedgerow to be removed to provide the access, it recommended that, in order to minimise any loss of the hedgerow, a hedgerow translocation should be undertaken to retain the diversity and value of this mature species-rich hedgerow.
 48. A substantial section of the hedgerow along the Pennsylvania Road frontage would need to be relocated. Based on the submitted drawings and the width required to form the access, this would appear to be around half of the length of this hedgerow. The plans indicate that existing trees along this frontage would be retained where possible.
 49. From what I heard, the translocation of a hedgerow involves either dragging or lifting the hedgerow and the bank in which it is growing to its new position, thereby minimising disturbance to it. Very limited details have been provided as to how this translocation of the hedgerow would be undertaken in the circumstances of the appeal site.
 50. I observed on site that the carriageway on Pennsylvania Road is considerably lower than the appeal site on its western boundary. In these circumstances, it is not evident how this work could be undertaken without a substantial amount of excavation. In view of the likely extent of this work and the very limited details provided, I do not have sufficient information to enable me to conclude that these works could be undertaken without significant harm to both the hedgerow and any species living within it. As these works would be fundamental to providing access to the scheme and given my concerns about the scale and impact from the works, it would not be reasonable to rely on a condition to secure these details.
 51. Moreover, even if the hedgerow could be retained, the proposed works would create a substantial gap within it. This would disconnect this mature hedgerow from the wider network of hedgerows within the area. Such connectivity is important in enabling animals, such as dormice, to travel between hedgerows and other habitats like woodland. The formation of the gap would therefore adversely affect the biodiversity of the area.
 52. The scheme proposes biodiversity enhancements. This includes the replacement, enhancement and creation of new hedgerows, a Sustainable Urban Drainage System incorporating areas of open water and wet grassland and for new grassland around the site to be managed meadow to provide foraging and commuting habitat for a range of local fauna. It also proposes new tree planting along the southern section of the site plus a small section of woodland and hazel scrub to be incorporated into the northern and western extents of the site.

⁵ Hazel Dormouse Nest Tube Survey Report, August 2020 – Delta-Simons

53. The appellant has submitted a biodiversity net gain report which demonstrates that the proposed development would result in an overall net gain in biodiversity. Based on the illustrative masterplan for the site, the appellant has assessed the biodiversity net gain to increase by more than 10 per cent for 'habitat units' and by approximately 90 per cent for 'hedgerow units'.
54. From what I heard, much of the new native hedges would be providing boundary hedging to the proposed housing. It would not therefore be possible to secure any long-term biodiversity gains from these as there would be nothing to stop future occupants from either cutting these or replacing them with an alternative form of planting or enclosure. In addition, these hedges would be fragmented, relatively narrow and short in length. The lack of connectivity and the limited scale of these would limit their effectiveness in establishing habitat for wildlife.
55. The biodiversity net gains are based on a hedgerow reaching a 'moderate' condition which would be around a ten year period and therefore significantly less than the 20-30 years that a hedgerow requires to reach maturity. In this regard, I do not find the replacement hedgerow would compensate for the loss.
56. The appellant's Preliminary Ecological Appraisal⁶ (PEA) assessed the site for identified habitat or potential species. In addition to dormice and hedgerow surveys, it indicated the need for a great crested newt survey as well as identifying other requirements for species protection. In the absence of firm evidence as to which of these species are present, it is not possible to establish a baseline of existing biodiversity on the site. Therefore, whilst the proposals may increase certain types of habitats, this could be to the detriment of these, as yet, un-surveyed species.
57. The Council did not refuse planning permission due to the absence of the additional surveys. This point was raised by the appellant at the Hearing. However, the Council's position was that since it found the scheme to be unacceptable for other reasons it would have been unreasonable to have required this extra work from the appellant when it was clear to the Council that it was going to refuse the application. Moreover, the appellant would have been aware of the need for additional survey work from their own PEA and could have undertaken this in order to confirm a robust baseline. In view of the Council's intention to refuse the scheme, I do not find its approach unreasonable.
58. In the absence of a firm baseline, I can only give limited weight to the biodiversity net gain report as there is insufficient evidence of what existing biodiversity on the site would be affected. Furthermore, the relocation of the hedge bank as proposed and the formation of a wide gap within what is a well-connected and established hedgerow would undermine connectivity. Besides, it seems to me that with the introduction of domestic development with associated lighting, hard surfacing and pets, especially cats, the net gains arising from the proposals are likely to be limited.

⁶ Delta-Simons - Preliminary Ecological Appraisal – Land off Pennsylvania Road, Exeter (January 2020)

59. In this location, where the appeal site forms part of a SLINC, I find that this would reduce the biodiversity of the site and the site's nature conservation value which would be harmful.
60. Overall, I find that the proposal would cause significant harm to biodiversity. It would therefore conflict with Policy LS4 of the LP which only permits development that would harm a SLINC if the need for the development is sufficient to outweigh nature conservation considerations and the extent of any damaging impact is kept to a minimum and appropriate mitigation and compensatory measures are implemented. It would also conflict with Policy CP16 of the CS which set out that the biodiversity value of sites of local conservation importance will be protected and unavoidable impacts mitigated and compensated for.

Highway safety

61. The main access for vehicles and pedestrians to the proposed development would be through a newly formed access onto Pennsylvania Road approximately 60 metres north of Whitethorn Park and 14 metres south of the entrance to Duryard Valley Park on the opposite side of the road. This stretch of Pennsylvania Road is on a hill, has no footpath and runs between a vegetated embankment on its western edge and the garden wall to Hilltop along much of its eastern edge. The road is subject to a 30 mph speed limit and I observed at both site visits that it was a well-used route.
62. The scheme proposes a footpath which would connect the site entrance with the existing footpaths on Stoke Valley Road which would provide a link to bus stops along this road. The submitted drawings indicate that the footpath would measure 1.8 metres across the site frontage and would narrow to 1.2 metres where it links to Whitethorn Park and beyond to Stoke Valley Road. This section of footpath would be some 60 metres in length. In order to accommodate the proposed footpath, the carriageway would be narrowed, reducing to 4.9 metres at its narrowest point.
63. The Council has requested a minimum provision of a 1.8 metre footpath and a carriageway width of 5.5 metres. It is not disputed that these dimensions cannot be achieved together due to the constraints of the existing road.
64. The proposed footpath would not be sufficiently wide to enable an ambulant person to pass along it side by side with a wheelchair user. In certain circumstances it may be appropriate for the ambulant person to walk behind the wheelchair user over a short stretch of footpath. However, in the scenario proposed as part of the appeal, it seems that should someone come from the opposing direction, they would need to step into the carriageway in order to get past.
65. Furthermore, with family housing proposed and improved pedestrian access to the adjacent picnic area, it seems very likely that there would be instances when pedestrians would be travelling along with a child's buggy and possibly a child walking beside them. This would also likely require someone travelling in the opposite direction to have to make way by stepping into the carriageway. These factors lead me to the conclusion that the narrowness of the proposed footpath would increase the risk of conflict between pedestrians and vehicular traffic along this stretch of Pennsylvania Road and would be harmful to pedestrian safety.

66. Based on Manual for Streets (MfS), it would not be possible for two HGVs to pass each other where the carriageway reduces to less than 5.5 metres. The appellant has argued that whilst there may be insufficient width for this, given the surrounding land uses, the likelihood of two opposing HGV movements occurring is generally low. I am inclined to agree with this assessment. I also note that the minimum width would enable a car and HGV to pass each other, based on the MfS assessment. In these circumstances, the reduced carriageway width would be acceptable for the vehicles anticipated to use it.
67. Nevertheless, with an insufficiently wide footpath which would mean pedestrians having to step into the carriageway in order to pass each other, the reduced carriageway width would, in my view, add to the risk to pedestrians.
68. I have been referred to the Devon County Council Highways in Residential and Commercial Estates – Design Guide and the requirements set out therein for a footpath width of 2 metres. This guidance recognises that in certain instances the width of a footpath may be reduced where pedestrian flows are low. It states that a reduction to 1.35 metres may be appropriate subject to visibility and safety requirements.
69. The appellant has assessed that on the basis of trips generated by the appeal site alone there would be five two-way trips in both the morning and afternoon peak hours. For this reason, it has been argued that the occurrence of people passing each other along this stretch would be low.
70. The proposal would additionally introduce a footpath and a dropped kerb crossing point providing improved access to the Duryard Valley Park in comparison to the existing circumstances. Notwithstanding the inadequate width of the footpath, I consider it likely that other users would be encouraged to walk along this stretch of the road particularly as it would provide access to this area of greenspace and the picnic spot located there. This leads me to conclude that pedestrian trips would likely be higher than those suggested by the appellant.
71. In terms of the reduced width, the appellant has argued that 1.35 metres does not align with any of the prescriptive requirements of any particular disabled users who would require either a width of 1.5 metres to enable a wheelchair user and ambulant person to pass along the footpath or 1.2 metres which would allow two ambulant people to walk side by side. I have been provided with no evidence that explains the width of 1.35 metres and why this would be acceptable but not 1.2 metres. However, as I do not consider that pedestrian flows would be that low, I find no justification for a reduced footpath width, whether 1.2 or 1.35 metres.
72. The indicative layout indicates an alternative pedestrian route from the appeal site onto the bridleway to the east. No details of the formation of this access have been provided. It has been confirmed that the existing bridleway would need to be upgraded to an appropriate standard for pedestrian use, notably through the installation of lighting. Due to issues of ownership, this would not be possible. The appellant has suggested that this would nevertheless provide an additional opportunity to provide access to and from the site. Whilst I do not disagree, it would not provide suitable or safe access to the site due to the absence of lighting. It therefore would not justify the provision of a substandard footpath along Pennsylvania Road.

73. My attention has been drawn to other sections of substandard footpath along Pennsylvania Road. Whilst I note these, they do not provide any justification for providing a substandard footpath to serve the appeal proposal.
74. I conclude that the proposed development would not provide safe access to and from the site for pedestrians. It would therefore increase the risk of conflict between pedestrians and other road users which would be harmful to highway safety. It would therefore conflict with Policy DG1 of the LP and CP9 of the CS. These policies together require development to connect effectively with existing routes and spaces and put people before traffic and include improvements to facilities for pedestrians.

Other Considerations

Housing Land Supply (HLS)

75. At the time the Council made its decision, it could only demonstrate a 2.1 years supply of housing. Since then, the Council published a September 2021 HLSS which set out that the Council had a supply of 5.5 years for the period commencing 1 April 2021.
76. The appellant disputes this position on the basis that the Council has included seven sites which either do not meet the Framework definition of a deliverable site or because full planning permission has been granted since 1 April 2021. On the basis of these sites being excluded, the appellant considers the Council can demonstrate between 4.41 and 4.67 years supply. These are premised on the application of a 'cut-off' date of 1 April 2021 for the calculation of the five year supply.
77. In order to be considered deliverable, the Framework sets out that sites for housing should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years.
78. Paragraph 74 of the Framework explains that a five year supply of deliverable housing sites can be demonstrated where it has been established in a recently adopted plan or in a subsequent annual position statement. The Council has no recently adopted plan and is therefore reliant upon producing an annual position statement. The Council's September 2021 HLSS with a base date of 1 April 2021 provided such a position statement.
79. The Council subsequently sought to revise that annual position statement by producing an updated version, published in November 2021, with a revised base date of 6 September 2021. This was submitted after the Hearing. It indicated that the Council could identify a 6.1 year supply of housing. In providing this updated position, the Council was seeking to address the criticism of its September 2021 HLSS in that the base date should be the same as the cut-off date for the assessment of delivery.
80. In support of its position, the Council referred me to a decision by the Secretary of State in relation to an appeal⁷ at Woburn Sands, Buckinghamshire. The Secretary of State concurred with the view of the Inspector that it is acceptable, in relation to an assessment of housing land supply, that evidence can post-date the base date provided that it is used to

⁷ APP/Y0435/W/17/3169314

support sites identified as deliverable as of the base date. This approach is reasonable and I have no reason to disagree.

81. However, the Woburn Sands Inspector did not agree that the base date should be altered to take into account such evidence as this would require an adjustment of the five year supply period which is not advocated in national policy or guidance. It was the Inspector's view that such an approach would go against efforts to create greater certainty in the planning process, thereby avoiding the need to argue HLS at every appeal. I agree with this conclusion. In coming to this view, I note that the Framework refers to an annual position statement which, to my mind, indicates it is produced once a year.
82. For this reason, I do not agree that the November 2021 HLSS should be used for the calculation of the Council's five year HLS. However, I agree that evidence beyond the base date can be taken into account on the basis that it supports sites identified as deliverable at the base date.
83. I turn now to consider the deliverability of each of the contested sites from the September 2021 HLSS.

Land to the north and south of the Met Office, Hill Barton (Phase 5) (Site 346a)

84. This site is expected to deliver 235 dwellings. As of the base date, no planning application had been submitted and pre-application discussions were ongoing. When the Council sought to update its evidence of delivery in August, the developer indicated it intended to submit a full application within 3-4 months. However, with no planning application submitted let alone approved several months beyond the base date, I do not consider that there is sufficient evidence that completions will begin on site within five years. I consider these 235 dwellings should be excluded from the trajectory.

Hill Barton Farm, Hill Barton Road (Site 347e)

85. At base date, there was a resolution to grant outline planning permission subject to the completion of a legal agreement. Outline permission was granted a couple of months after base date in June 2021 for 200 dwellings of which 132 are expected to be delivered within the HLSS five year period. This is phase 4 of a five phase scheme. A reserved matters application was submitted in the same month permission was granted. The evidence provided post-hearing indicates that the reserved matters has been approved. This is indicative of the scheme being progressed quickly through the application process. The Council has indicated that previous phases have been successfully delivered and I have no evidence to the contrary. On this basis, it is reasonable to include the 132 dwellings within the calculation.
86. The Council's November HLSS indicates that this site would deliver 146 dwellings within the five year period. However, this is predicated on a base date of 6 September 2021. I have found no justification for revising the base date nor recalculating the supply. I have therefore not applied the revised figure.

Land east of Cumberland Way (Phase 4) (Site 356d)

87. Outline planning permission was granted for 80 dwellings on this site in April 2021, shortly after base date. A reserved matters application was due in

Summer 2021 but I have nothing before me to indicate this has been submitted. I therefore have no evidence of how much progress has been made towards approving reserved matters, as advocated in the Planning Practice Guidance. Furthermore, the evidence indicates that the site was to be sold on and that this sale has since stalled. For these reasons, I do not consider that there is clear evidence that completions will begin on site within five years. I therefore consider 80 dwellings should be excluded.

The Old Coal Yard, Exmouth Junction, Mount Pleasant Road (Site 408)

88. This site has outline permission for 400 dwellings and 65 senior living care units, identified in the HLSS as delivering 465 dwellings over a 10 year period. Of this, 150 dwellings have been identified for delivery within the first five years. At base date, no permission had been granted and no reserved matters application had been made. In the absence of these, there is no clear evidence that housing completions will begin on site within five years. I therefore consider 150 dwellings should be excluded.

Exmouth Junction gateway site, Prince Charles Road (Site 423s)

89. A full planning application was made for 51 dwellings. The Council's HLSS set out that it had been recommended for approval but was awaiting the completion of a legal agreement. I have nothing before me to show this has now been resolved. This degree of uncertainty could in my view put back the potential start date of a development by some time. For these reasons, I do not consider it appropriate to include this development within the calculation of overall supply. These 51 dwellings should be removed from the calculation.

Clifton Hill Sports Centre, Clifton Hill (Site 419s)

90. At base date, there was a resolution to approve a scheme for 42 dwellings subject to completion of a section 106 legal agreement. Planning permission has subsequently been granted on 13 October 2021. Whilst this is beyond base date, it relates to a site the Council included as deliverable at base date. I therefore consider these dwellings should be retained as part of the five year supply.

Whipton Barton House, Vaughan Road (Site 407s)

91. A full planning application for 56 dwellings had a resolution to approve subject to a completed section 106 at base date. Planning permission was granted in September 2021. For the same reason I consider dwellings from the redevelopment of the Clifton Hill Sports Centre should be included, I consider these 56 dwellings should also be.
92. The Council has referred me to a site, The Harlequin Centre, Paul Street, which had planning permission for 125 dwellings plus a hotel which were considered deliverable within the five year period. This was included within the September HLSS. At that time, the developer of that scheme had submitted a revised application seeking the development of 330 dwellings which was pending consideration. The Council has advised that the revised scheme is now recommended for approval. However, I have no firm evidence that permission has been granted. The adjusted number of dwellings should not therefore be included within the calculation.

93. The appellant has argued that the Covid-19 pandemic is likely to have implications for the housebuilding industry. Whilst it is accepted that the effects of the pandemic are not fully known, I have been provided with no substantive evidence of any notable slowing down of the housebuilding industry nor of the housing market. I therefore give this very limited weight in terms of its effect on HLS.

Overall findings on HLS

94. The Council's housing requirement is for 3,292 dwellings over the five year period. In excluding the sites as set out above, the Council's deliverable supply of housing would be 3,072 representing a shortfall of 220 dwellings.
95. The Council cannot demonstrate a five year supply of deliverable housing sites. The shortfall is modest. Where a five year housing land supply cannot be demonstrated, paragraph 11 of the Framework sets out that decisions should apply a presumption in favour of sustainable development. I return to this in my planning balance.

Benefits of the scheme

96. The scheme would deliver up to 26 dwellings and would make a contribution to the supply of housing for the city. In the context of the Council's modest shortfall in its supply of deliverable housing sites, the addition of 26 dwellings carries moderate weight.
97. According to the Council's Strategic Housing Market Assessment 2014/15, the predicted level of affordable housing that would be delivered through policy compliant development would be 215 units per annum which would be significantly less than the identified affordable housing need of 325 dwellings. The proposal would provide a policy compliant 35 per cent affordable housing, equivalent to 8 affordable units that would be provided on site. This would help to create balanced communities and would help to meet an identified need for affordable housing. However, the provision of 8 affordable units is a modest contribution to the overall supply of affordable housing. It therefore carries moderate weight in the scheme's favour.
98. I have been referred to an appeal⁸ at Ringswell Avenue, Exeter where the Inspector attributed considerable weight to the benefits of the scheme which included the provision of 17 affordable units. However, this was part of a larger scheme and delivered more than double the amount of affordable housing units compared to the scheme before me. It is not therefore directly comparable.
99. During construction and subsequent occupation of the development, there would be a number of economic benefits in relation to employment, supply of goods, use of services and spending money within the local economy. Those associated with construction would be time limited, however, longer term benefits would result from future occupants. Additional financial benefits would be accrued from the New Homes Bonus and the Council tax receipts. These benefits together carry moderate weight.
100. The appellant contends that the proposed development would be in an accessible location which would reduce the need to travel by private car.

⁸ APP/Y1110/W/18/3212951

Within Exeter, future occupants would have access to a good level of services including schools, a university, public transport and the shops and facilities within the city centre which are located some 1.5 kilometres from the site.

101. I have already found the proposal would not provide safe pedestrian access from the site. Furthermore, public transport from the site is limited to a single route bus service which runs half hourly during the week and hourly on the weekend. The appeal site is located on a hill and therefore to access services and facilities on foot would involve walking down and up a relatively steep incline. This would not be practical if carrying shopping or pushing a buggy for any distance. I do not therefore consider the location to be accessible. I therefore give this aspect of the scheme very limited weight.
102. The revised highway scheme proposed to provide an informal pedestrian crossing in the form of a dropped kerb to the publicly accessible picnic area within the Duryard Valley Park. There is currently no footpath link to this area and the proposal would therefore represent an improvement on the existing situation. However, given that the proposed footpath to this location would be substandard, I give this benefit limited weight.
103. The appellant has indicated that the scheme would provide an area of open space which would be publicly accessible. However, the submitted Landscape Masterplan attached to the Biodiversity Net Gain Report identifies that most of the undeveloped space within the site will be used for woodland, hazel or wildflower planting. It is not clear where the public open space would be or how this could be accommodated in the context of the proposed biodiversity gains. In addition, this area would be set away from the existing residential development and likely would only be used by future occupants of the proposed development. Whilst I acknowledge the health and wellbeing benefits of open space, I give the provision of open space very limited weight.
104. It is suggested that the scheme would contribute to carbon savings, however, I have limited information in respect of this. This therefore carries very limited weight in favour of the scheme.
105. The proposed dwellings would be built to comply with required standards of energy consumption and sustainability as set out in guidance and required by Building Regulations. This does not offer anything over and above requirements, and therefore in terms of the benefits it delivers I attribute this very limited weight.
106. The scheme would make a contribution to secondary school provision. However, this would be to meet the needs arising from the proposed development. This would therefore be a neutral factor in the balance.

Other Matters

107. The appeal site is located within 10 kilometres of both the Exe Estuary Special Protection Area (SPA) and the East Devon Pebblebed Heaths SPA and Special Area of Conservation. These are statutorily protected habitats sites under the Conservation of Habitats and Species Regulations 2017 (as amended).
108. The Council has determined that additional residential development would, in combination with other plans and projects have a significant effect on these protected sites through additional recreational pressures. The Council has undertaken an appropriate assessment which concluded that the impacts of

the proposed development could be mitigated through a financial contribution towards the implement of measures set out within the South East Devon Site Mitigation Strategy. The Council confirmed that this contribution could be top-sliced from Community Infrastructure Levy payments.

109. Notwithstanding the Council's findings in respect of this, as the competent authority, I am required to carry out an appropriate assessment of the effect of the proposed development. However, as I have found that the scheme is unacceptable for other reasons, I do not need to pursue this matter further.

Planning Balance

110. The appeal site is located outside the settlement boundary and is in the open countryside. There would be significant harm to the character and appearance of the area, biodiversity and pedestrian safety. These are all matters which carry very substantial weight and importance in the planning balance.
111. I have identified the most important policies for determining this application. Of these the proposed development would conflict with policies CP9 and CP16 of the CS and policies H1, LS1, LS4 and DG1 of the LP. The proposal would comply with policy CP7 in regards to affordable housing and inevitably would comply with other relevant policies within the development plan. Nevertheless, in my judgement the appeal scheme would conflict with the development plan when taken as a whole.
112. Paragraph 11 d) of the Framework sets out that for decision taking where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, permission should be granted unless: i. the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
113. Footnote 8 sets out that in relation to an application involving the provision of housing, where a local authority cannot demonstrate a five year supply of deliverable housing sites, then the policies which are most important for determining the application are out-of-date.
114. I have found that two of the most important policies are out of date but the majority are not. Which leads me to conclude that the basket of most important policies is not out-of-date in this case. However, I have concluded that the Council cannot demonstrate a five year supply of deliverable housing sites to meet its local housing need. The presumption in favour of sustainable development would therefore apply in this case and the 'tilted balance' would be engaged.
115. The proposal would deliver a range of modest economic, social and environmental benefits. Due to the modest scale of the benefits in the context of the limited shortfall in housing supply, these benefits attract limited to moderate weight. Taken in combination, I therefore attribute moderate weight to the package of benefits in the planning balance.
116. As I have identified above, the proposal would give rise to significant harm in respect of three main issues to which I attribute substantial weight. In my view, the adverse impacts of granting permission would significantly and

demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a whole. Therefore, the proposal would not constitute sustainable development with regard to paragraph 11 d ii) of the Framework.

Conclusion

117. The proposed development would be contrary to the development plan and there are no material considerations that outweigh this conflict. Consequently, with reference to Section 38(6) of the Planning and Compulsory Purchase Act 2004, the appeal should be dismissed.

Rachael Pipkin

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Joe O'Sullivan	Head of Planning, AAH Planning Consultants
Leanne Richardson	Senior Planning Consultant, AAH Planning Consultants
Oliver Brown	Landscape Architect, AAH Planning Consultants
Stuart Wilson	Transport Planning, Newell Edwards

FOR THE LOCAL PLANNING AUTHORITY:

Matthew Diamond	Principal Project Manager (Development)
Katherine Smith	Principal Project Manager (Local Plans)
Anne Priscott	Consultant Landscape Architect
Alex Thomas	Senior Highways Development Management Officer, Devon County Council
Simon Curran	Solicitor, Exeter City Council Legal Services

INTERESTED PARTIES

Ken Scowcroft	Local resident
Mark Stobbs	Local resident
Francis Hall	Local resident
Mr Caspar	Local resident
G Hall	Local resident

HEARING DOCUMENTS

- HD1 Council Statement in response to the Inspector's question regarding habitats mitigation (November 2021)
- HD2 Costs application on behalf of the Council

POST-HEARING DOCUMENTS

- PHD1 Email from Council dated 4 November 2021 requesting late evidence relating to the Council's five year housing land supply be considered
- PHD2 Copy of Hazel Dormouse Nut Search Survey and Hedgerow Survey Report, March 2020
- PHD3 Copy of Hazel Dormouse Nest Tube Survey Report, August 2020
- PHD4 Email from Appellant dated 8 November 2021 responding to Council's proposed submission of late evidence
- PHD5 Email from Council dated 9 November 2021
- PHD6 Council's Five Year Housing Land Supply Statement (November 2021)
- PHD6 Secretary of State Decision, APP/Y0435/W/17/3169314, Land to the East of Newport Road and to the east and west of Cranfield Road, Woburn Sands, Buckinghamshire
- PHD7 Consent Order in relation to appeal APP/G2815/W/19/3232099
- PHD8 Delivery evidence for site 416
- PHD9 Email from Appellant dated 10 November 2021, setting out objections to the late evidence and confirming a written rebuttal to the Council's late evidence will be submitted
- PHD10 Appellant's Costs rebuttal and Appendix A
- PHD11 Unilateral Undertaking under section 106 of the Town and Country Planning Act 1990 (as amended) dated 17 November 2021
- PHD12 Deed of Revocation dated 19 November 2021
- PHD13 Council's comments on Appellant's costs rebuttal
- PHD14 Appellant's Rebuttal on revised 5 year housing land supply
- PHD15 Appellant's costs application
- PHD16 Council's costs rebuttal, email dated 10 January 2022
- PHD17 Email from appellant dated 14 January 2022 confirming no further comment to costs rebuttal

Appeal Decision

Site visit made on 22 January 2018

by Neil Pope BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 February 2018

Appeal Ref: APP/Y1110/W/17/3179387

Land to the north of WESC, Topsham Road, Exeter, Devon, EX2.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by A D P & E Farmers against the decision of Exeter City Council.
 - The application Ref. 17/0121/01, dated 19/1/17, was refused by notice dated 28/3/17.
 - The development proposed is up to 123 houses and associated infrastructure.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Other than the means of access, all matters of detail have been reserved for subsequent consideration. I have treated the proposed masterplan and all other drawings (except those relating to access) as illustrative only.
3. Both main parties agree that: the Council is only able to demonstrate about 2.5 years supply of housing land; this shortfall in supply should be given substantial weight and; the 'tilted balance' in paragraph 14 of the National Planning Policy Framework (the Framework) is engaged.
4. On behalf of the appellant, an Agreement with the Council and Devon County Council, as the local highway authority, has been submitted under the provisions of section 106 of the above Act. Amongst other things, this includes obligations relating to the provision of affordable housing, green infrastructure, public open space, highway works and a travel plan.
5. An application for an award of costs has been made by the appellant against the Council. This application is the subject of a separate decision.

Main Issue

6. The main issue is whether any adverse impacts of the proposed development, having particular regard to the likely effects upon the Ludwell Valley Park (LVP) and the landscape setting of Exeter, would significantly and demonstrably outweigh the benefits of the proposal.

Reasons

Planning Policy

7. The development plan includes the Exeter Core Strategy (CS) that was adopted in February 2012 and the 'saved' policies of the Exeter Local Plan First Review (LP) that was adopted in 2005. The most relevant policies to the determination

of this appeal are CS policy CP16 (strategic green infrastructure network) and LP policies L1 (valley parks) and LS1 (landscape setting of Exeter).

8. I note that when determining an appeal in 2014 on a different site an Inspector gave little weight to LP policy LS1 as the evidence base on which this policy relies was found not to be up-to-date (ref. APP/Y1110/A/14/2215771). I also note the recommendation of the Inspector who reported on objections to the inclusion of the appeal site as part of the LVP during the examination into the LP. However, having considered the Inspector's report, the Council resolved to include the appeal site within LVP. That decision was not challenged through the courts and it would be inappropriate to 're-run' that part of the examination in this planning appeal. The provisions of LP policy L1 apply to the appeal site.
9. My attention has also been drawn to a 2016 appeal decision on a site at Topsham where another Inspector found that LP policy L1 and CS policy CS16 were policies relevant for the supply of housing and were out-of-date (ref. APP/Y1110/W/15/3005030). However, that finding was made prior to the Supreme Court's judgement in Suffolk Coastal District Council (Appellant) v Hopkins Homes Ltd and another (Respondents) Richborough Estates Partnership LLP and another (Respondents) v Cheshire East Borough Council (Appellant) [2017] UKSC 37. In the appeal before me, the appellant accepts that LP policy L1 should no longer be considered a policy relevant to the supply of housing. The same is true in respect of CS policy CS16. I shall afford both of these policies the full weight of the development plan.

Other Documents

10. My attention has been drawn to other published documents. These include the Riverside & Ludwell Valley Parks Masterplan 2016-2026 (MP) that was approved by the Council in 2016. Amongst other things, the MP identifies character zones for the LVP¹ and sets out a vision for increasing the amount, quality and accessibility of public open space and ensuring sensitive environmental features are not damaged.
11. The appeal site lies within the Ludwell character zone. This is characterised as natural green space with long views out to the estuary and an area where traditional mixed farming predominates, a strong sense of place exists and an overriding affinity with farmland, rolling fields and hedgerows. It is described as "*Little Devon*". The strategy/proposals map includes the retention of the appeal site as an open field.
12. The Exeter Fringes Landscape Sensitivity and Capacity Study (EFS) was produced in 2007. The appeal site lies within Zone 14. This is an area of high-medium landscape sensitivity and medium-low capacity for housing development.
13. Whilst not planning policy, the MP and EFS can be given moderate weight.
14. I note that over the years the appeal site has been assessed in various Strategic Housing Land Availability Assessments (SHLAA) produced on behalf of the Council. However, these do not convey any tacit approval or refusal. They are not determinative to the outcome of this appeal.

¹ This comprises approximately 80 ha of private and publicly owned land that includes rolling farmland with orchards and semi-improved and unimproved neutral grasslands, arable fields, hedges and young woodlands.

Planning History

15. There is a history of planning appeals for residential development on the appeal site. These include a decision by the Secretary of State in 2004 to dismiss an appeal by the appellant (ref. APP/Y1110/A/02/1103294). There have been material changes in circumstances since these previous decisions. This includes changes to the development plan, the publication of the Framework and the extent of the shortfall in supply of housing within Exeter. These previous decisions do not therefore set a precedent that I must follow. Nevertheless, they are material considerations that carry limited weight.

Benefits

16. The proposed development would increase the mix and choice of housing within the city and help address the shortfall in supply. The provision of 35% affordable housing as part of the proposals would assist in meeting the needs of those who are unable to afford their own homes. In this regard, there is considerable need for affordable housing in the area. The proposals would accord with development plan policies² relating to the mix of housing.
17. Occupiers of the proposed dwellings would support local services and facilities and during the build-out, the development would also support the construction industry, including employment provision. After completion, the development would increase Council Tax revenue and attract a New Homes Bonus.
18. As set out within the appellant's Ecological Appraisal, the proposed areas of green space and planting would be likely to provide a local enhancement for wildlife. The proposed footpaths, cycleway, public open space and connection to other parts of the LVP to the north would also be of benefit.
19. The above benefits carry considerable weight in the planning balance.
20. The £250,000 green infrastructure contribution towards pedestrian and cycle accessibility enhancement within the LVP and/or towards the cost of delivering the objectives of the MP would clearly be of some benefit. However, I am only able to take into account obligations where they comply with the provisions of the Community Infrastructure Levy Regulations 2010 (as amended) and paragraph 204 of the Framework.
21. There is no cogent evidence before me to demonstrate that this green infrastructure contribution is necessary to make the development acceptable in planning terms and is fairly and reasonably related in scale and kind to the development. It is not therefore compliant with the above Regulations and the Framework and I am unable to take it into account. I note the appellant's scepticism on the necessity for this contribution.

Ludwell Valley Park / Setting of Exeter

22. The appeal site comprises approximately 6.73 ha of agricultural land on the eastern fringes of Exeter. Excluding the access onto the A3015 (Topsham Road), the site is a gently undulating open field (semi-improved grassland) with a dry valley. It is bounded by intermittent hedgerow with some trees. There is no public access to the site and it forms part of the LVP.

² CS policies CP5, CP7

23. There is development on three sides of the site. This includes houses in Tollards Road to the north west, the West of England School and College³ (WESC) to the south west and the A379 (Rydon Lane) to the south east. To the north east is an adjoining part of LVP with Pynes Hill Business Park beyond.
24. As I noted during my visit, notwithstanding its location on the fringe of Exeter, the LVP has a distinctly rural (countryside) character and appearance that provides an attractive contrast with the built-up areas alongside. The unspoilt open qualities of the appeal site, its undulating landform and agricultural use compliment the pleasing attributes of this area of landscape/LVP and adds to the sense of relief from the built environment. I concur with the Council that the site contributes to a visual appreciation of the park and adds to the feeling of openness for users of LVP. It forms an integral⁴ part of the LVP.
25. In addition to the above, there are alluring views across the appeal site. In particular, there are sweeping views down the Exe Estuary, as well as towards some of the hills surrounding Exeter. From the hillside to the south west of the River Exe, the site forms part of an attractive green swathe that softens the eastern edge of the city and is a visual link to the wider countryside. The site contributes the scenic qualities of the area and the landscape setting of Exeter.
26. During my visit I walked along sections of the well-worn paths within the LVP and saw the links to adjoining residential and office areas. I also noted the various information boards, benches and the popularity of this park with walkers and cyclists. From some of the representations made to me the LVP is perceived as a 'green lung'. It is an important asset to Exeter.
27. The main parties disagree as to whether or not the appeal site forms part of a valued landscape to which the first bullet point of paragraph 109 of the Framework applies. Valued landscape is not defined within the Framework and all landscapes have some value.
28. The courts⁵ have held that a site must possess demonstrable physical attributes which would take it beyond mere countryside. The appellant has drawn attention to the Landscape Institute's 'Guidelines for Landscape and Visual Impact Assessment' (GLVIA). This does not comprise planning policy or Government guidance but it can assist in helping to identify valued landscapes.
29. Mindful of these matters and with regard to: the provisions of the development plan and the MP regarding the LVP (including the appeal site); the distinctive landscape qualities of this park (such as its undulating fields, dry valleys and scenic qualities); the perceptual aspects of this landscape (as conveyed by many of those who have made representations at application and appeal stages), I have no doubt that the appeal site forms part of a valued landscape.
30. The appellant's indicative masterplan for the development of the site avoids housing on the upper slopes of the eastern side of the dry valley with structural planting on this part of the site. Structural planting is also shown around the boundaries of the site. There would be a green 'spine' of open space along the bottom of the valley and footpath and cycle connections. On behalf of the appellant, it has been calculated that the developable area would be 3.51 ha.

³ A specialist school for the blind and partially sighted.

⁴ In landscape and visual terms.

⁵ Stroud District Council v SoS CLG and Gladman Developments Limited [2015] EWHC 488 (Admin).

31. In all probability, some greenfield land would have to be released to meet Exeter's housing requirement. The loss of such land would inevitably have some adverse landscape and visual impacts. I recognise the attempts made by the appellant to limit the impact of the proposals. However, the appeal scheme would entail the permanent loss of a sizeable part of the field to housing, roads and other ancillary works. Development would extend from the lower parts of the site adjacent to WESC and across the field onto the upper slopes of the western side of the dry valley. It would dramatically change the rural character and appearance of the site and replace it with an overtly urban form of development. This would considerably erode the pleasing attributes of the site.
32. The erosion of the agricultural character and unspoilt open qualities of the site would be evident from some neighbouring residential properties, Rydon Lane and more importantly⁶ from elsewhere within the LVP. No matter how carefully sited and designed, the proposed development, including the marked increase in vehicular activity within the site, would contrast awkwardly with the natural green space and countryside character of the LVP that is cherished by many.
33. From within the LVP some of the proposed dwellings would intrude into and detract from the quality of some of the views across the site. When seen from the hillside to the south west of the River Exe the proposal would appear as an extension of the urban limits into the surrounding countryside. To a limited extent this would detract from the landscape setting of Exeter.
34. The loss of open land and the housing proposed adjacent to the north western boundary of the appeal site would create an 'awkward' strip of park sandwiched between the business premises to the north and the edge of the appeal site. This part of the LVP would become a rather odd linear feature or isolated tongue of open land that would lack the extensive rural character which typifies the rest of the LVP. The proposals would diminish the pleasing sense of space that currently exists within this part of the LVP and be likely to result in a less attractive area for informal or casual recreation. This harm would not be 'off-set' or adequately compensated by the proposed public access which would run through the middle of a housing estate or be adjacent to new houses.
35. The proposed development would have a serious adverse effect upon the character and appearance of the LVP and also detract from the landscape setting of Exeter. There would be conflict with the provisions of CS policy CP16, LP policies L1 and LS1 and the objectives of the MP. The proposal would also be at odds with the provisions of the Framework that are aimed at protecting and enhancing valued landscapes. The totality of this harm carries very considerable weight within the planning balance.

Other Matters

36. There is considerable local opposition to the proposals. This includes representations from the local County Councillor and the Ludwell Life community group. Whilst I recognise the Government's 'localism' agenda, public opposition or support for a proposal does not in itself justify refusing or granting planning permission.
37. Having considered the appellant's detailed Transport Assessment (TA) and separate Travel Plan neither the Council nor officers acting on behalf of Devon

⁶ There would be glimpsed views from the A379 and residents are not entitled to views across private land.

County Council as Local Highway Authority have raised any highway objections. I note the City Council's concerns over the County Council's resolution that it was "*not able to submit any view on this application*". Whatever the reason behind this resolution the stance taken by members of the County Council's Development Management Committee does not assist the planning process. Whilst I note the concerns of some interested parties regarding highway issues, there is no cogent evidence to justify reaching a different conclusion to the TA that the proposed development would have safe, convenient and appropriate access arrangements with adequate car parking provision.

38. I also note the concerns of some interested parties regarding surface water run-off and flooding. The appeal site lies within Flood Zone 1 (low risk of flooding) and the proposed surface water drainage strategy would incorporate a sustainable drainage system, including a swale feature to ensure run-off rates would be restricted to greenfield rates. Having considered the appellant's Flood Risk Assessment and Addendum, the County Flood Risk Officer did not object to the proposals. The proposal accords with the aims of the development plan regarding flood risk⁷. There is no technical or other cogent evidence to support the concerns of some local residents on this matter.
39. Some interested parties have expressed concerns regarding the likely impact upon vulnerable students at WESC. However, I note that WESC wrote in support of the application. Whilst the proposed construction phase would result in some disturbance to those studying/living alongside, this would be for a temporary period and the impact would be limited if controlled by a Construction Management Plan that was agreed by the main parties.
40. I note the concerns of some interested parties regarding the cumulative impact of developments, including the appeal scheme, upon air quality in this part of Devon. Air quality is an important matter. However, I note that the Council's Environmental Health Officer was consulted on the application and did not raise any concerns on this matter. The appellant's Air Quality Assessment also concluded that the change in air quality as a result of the development is predicted to be "*imperceptible*" and the impact "*negligible*". This Assessment is several years old and circumstances may have changed. If I had been minded to allow the appeal I would have required an update to this Assessment.
41. I note that the appeal site comprises grade 2 agricultural land. This is best and most versatile agricultural land (BMV) as defined within the Framework. The permanent loss of about 3.5 ha of BMV weighs against the sustainable credentials of the proposal. However, this would be very unlikely to have any significant effect upon the efficient operation of the agricultural industry. My decision does not therefore turn on this matter.

Planning Balance / Overall Conclusion

42. When all of the above is weighed together, including the shortfall in the supply of land for housing, I find that the adverse impacts of the proposed development and in particular, the likely effects upon the LVP and the landscape setting of Exeter, significantly and demonstrably outweigh the benefits of the proposal.

⁷ CS policy CP12.

43. Whilst the appeal scheme accords with some aspects of the development plan I have found conflict with other policies. Providing sufficient homes to meet the needs of the community is an important element of the plan. However, it is not the intention of the plan for this to be achieved at the expense of important environmental assets such as the LVP. The proposal would conflict with the provisions of the development plan when considered as a whole.
44. The proposal would satisfy the economic dimension to sustainable development as set out within the Framework. There would also be some social and environmental benefits. However, the harm that I have identified to the LVP leads me to conclude that the proposal would not satisfy the social and environmental dimensions to sustainable development. The shortfall in housing land supply does not override other considerations. The proposal would be contrary to the policies of the Framework taken as a whole.
45. Given all of the above and having regard to all other matters raised, I conclude that the appeal should not succeed.

Neil Pope

Inspector



Appeal Decision

Site visit made on 1 October 2019

by Matthew Jones BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 November 2019

Appeal Ref: APP/Y1110/W/19/3232632

Pocombe Orchard, Tedburn Road, Exeter EX2 9EX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Paul Warren against the decision of Exeter City Council.
 - The application Ref 18/1543/OUT, dated 15 October 2018, was refused by notice dated 30 April 2019.
 - The development proposed is 5 dwellings.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. The planning application was submitted in outline with all matters aside from access reserved. I dealt with the appeal on that basis, treating drawing Refs 2032-1-7C and 2032-1-7D as illustrative aside from where they relate to the proposed access.

Main Issues

3. The main issues are:
 - whether the site represents an appropriate location for housing having regard to flood risk; and,
 - the effect of the proposed development on the character and appearance of the area.

Reasons

Flood Risk

4. The appeal proposal seeks to provide five dwellings at Pocombe Orchard, which is a largely open parcel of land adjacent to the Alphin Brook, on the edge of the small settlement of Pocombe Bridge. The Environment Agency has identified that the Alphin Brook has a catchment of around 16km² and responds quickly to rainfall given its valley setting. The appeal site is part of its non-functional floodplain and is within Flood Zone 3a. The Planning Practice Guidance (the PPG) defines Flood Zone 3a as having a high probability of flooding and identifies buildings used for dwelling houses to be a 'more vulnerable' form of development with regard to flood risk.
5. Amongst other things, Policy EN4 of the Exeter Local Plan First Review (adopted 2005) (ELP) states that permission should not be granted for development at risk of flooding. The reasoned justification for Policy CP12 of the Core Strategy (adopted 2012) (CS) aims to avoid inappropriate

- development in flood risk areas. The policy wording identifies that the spatial strategy of the development plan reflects the precautionary approach to flooding and flood risk, with the Exeter Strategic Flood Risk Assessment used to ensure that development avoids areas of higher risk.
6. Paragraph 155 of the National Planning Policy Framework (the Framework) advises that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. This is substantiated in Paragraph 158, which outlines the need for development to pass a Sequential Test, the aim of which is to steer new development to areas with the lowest risk of flooding. If there are reasonably available sites at a lower risk of flooding, the development should not be permitted.
 7. The PPG also states that only where there are no reasonably available sites in Flood Zones 1 or 2 should the suitability of sites in Flood Zone 3 be considered. The Exception Test may then be applied if required¹, which relates to the wider sustainability benefits of the proposal and the safety of the proposed development during its lifetime. As such, the Exception Test is carried out only if and when the Sequential Test is passed. The distinct requirements of these two separate tests should not be conflated.
 8. The Council has identified, through a Strategic Housing Land Availability Assessment, that there are available sites elsewhere in Exeter at a lower risk of flooding which could deliver at least 5 dwellings. The appellant also accepts the existence of other available sites within Exeter at a lower flood risk. Given this evidence that there are sequentially preferable sites reasonably available, I find that it has not been demonstrated that the proposal would satisfy the Sequential Test.
 9. As the Sequential Test has not been passed, it is not necessary to go on to consider the Exception Test. Whilst I have noted the detailed mitigation measures set out within the appellant's Flood Risk Assessment (FRA), and the wider sustainability benefits of the proposal, these factors do not address the Framework's general objective of avoiding such development in higher risk locations in the first instance.
 10. The appellant has drawn my attention to three sites within Flood Zone 3 where the Council deemed the Sequential Test to be met². This includes the adjacent site at Pocombe Grange, which is very similar to the appeal site. However, I must assess this proposal on its own individual merits. To this end, any inconsistency between the Council's approach to these decisions and the proposal would not release me from the requirement to establish the suitability of the appeal site for housing on a sequential basis. For this reason, these permissions have had limited weight in my assessment in relation to this issue.
 11. I therefore find that the site does not represent an appropriate location for housing having regard to flood risk. The proposal would therefore be contrary to Policy EN4 of the ELP and Policy CP12 of the CS which, taken together, seek to avoid inappropriate development in areas at risk of flooding. It would also be contrary to the sequential approach to the provision of housing within areas of flood risk set out within the Framework.

¹ Paragraph: 019 Reference ID: 7-019-20140306

² Refs: 18/1473/FUL, 16/0082/FUL and 16/1216/OUT

Character and Appearance

12. With limited exception, the buildings of Pocombe Bridge are set in a linear fashion on the west side of Tedburn Road, within an otherwise largely rural valley setting. The area falls within the Alphington-Whitestone Cross Valley Park, which is a local designation under Policy L1 of the ELP. Although the city of Exeter is close by to the east, the steepness of the intervening topography and the prevalence of woodland significantly prevent any perception of this dense urban area.
13. The site occupies the valley floor to the east of Tedburn Road, with the meandering and tree lined Alphin Brook to the south and east. Whilst there is a section of roadside hedgerow which is comparatively sparse, it is nonetheless a continuous and verdant feature which runs along the majority of the site's boundary. It contrasts with the built form on the opposite side of the highway and emphasises Pocombe Bridge's rural setting.
14. For these reasons, although the site has no individual designation nor is it defined as a valued landscape, I find that it makes a positive and meaningful contribution to the rural character of the area. The appellant has drawn my attention to appeal decisions elsewhere which raise similar issues³. Although details are limited, those decisions would have been made on a site-specific basis, and on the individual circumstances of the case. They therefore carry very limited weight in favour of this proposal.
15. The plans indicate that the proposed dwellings would be set back from the highway. A new access would be created at the approximate centre of the site's roadside boundary, at the hedgerow's weakest point, from which parking and turning areas could be provided. The removal of the hedgerow and creation of a domestic vehicular access at this point would disrupt the continuous linear form of the boundary and harm the site's verdant character. This would not be mitigated by closing up the existing access, which is less prominently located at the far northern end of the site.
16. Whilst the retained boundary and additional landscaping would screen the houses from view to an extent, the presence of development would be visible from the public highway through the new access. The Council considers the appellant's submission that only 7m of hedgerow and two trees would need to be removed inconsistent with the highway consultation response, which requires 43m visibility splays to be maintained. Although the appellant considers that this would require only the scaling back of the hedgerow, to my mind such works would diminish the substantive appearance of the boundary, and further erode the site's contribution to the rural character of the area.
17. The linear layout of the housing seeks to relate the scheme more closely to the properties across the highway, in order to address concerns raised in a previous appeal decision⁴. However, owing to the site's location, the housing would nonetheless appear visually isolated from the established concentration of development on the west side of Tedburn Road. I acknowledge that there are houses to the east and south of the site, some of which have been extended or improved with outbuildings. These properties have now been joined by the three houses at Pocombe Grange. However, the trees that line

³ Appeal Refs: APP/Y1110/A/14/2215771, APP/Y1110/W/17/3168133 and APP/Y1110/W/18/3202635.

⁴ Appeal Ref: APP/Y1110/W/16/3155552

the Alphin Brook significantly restrict intervisibility between these other housing sites and the appeal site. Given such, they add little urbanisation to the setting of the appeal site and set no precedent for its development.

18. I therefore conclude on this issue that the proposal would have an unacceptable harmful effect on the character and appearance of the area. It would conflict with the design and visual amenity aims of Policies L1 and LS1 of the ELP, Policy CP16 of the CS and the Framework. Given the appellant's submission with regard to the compatibility of Policy LS1 with the Framework, the conflict I have identified with this policy attracts only limited weight.

Planning Balance and Conclusion

19. The appellant has identified that the Council cannot currently demonstrate a five-year supply of deliverable housing sites, and this has not been disputed. As such, Paragraph 11 d) of the Framework applies. It states that, in these circumstances, permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. Pursuant to footnote 6, this includes where a proposal would be within an area at risk of flooding.
20. The appellant has highlighted that the mitigation measures within the Flood Risk Assessment would ensure that the dwellings would be safe from flooding through the lifetime of the development. However, footnote 6 refers to areas at risk of flooding, not specific sites or proposals. The site is within an area of Flood Zone 3a and there are sequentially lower risk sites elsewhere. I therefore find that the application of policies in the Framework which relate to the Sequential Test provide a clear reason for refusing the development proposed, and the presumption in favour of sustainable development is not engaged.
21. The government is seeking to significantly boost the supply of housing and the scheme would provide five homes thereby contributing to addressing the housing shortfall in the area. The houses would be in an area with adequate access to services and facilities, which would likely gain from the increased footfall. Due to the small number of houses that would be delivered, I find that these benefits of the scheme would be modest.
22. The proposal would be inappropriately located in an area with high probability of flooding. Its development would cause unacceptable harm to the character and appearance of the area. Individually and together, I attribute these matters significant weight, and find that they would outweigh the benefits I have identified.
23. I therefore find that the proposal would conflict with the development plan when read as a whole. There are no other considerations, including the Framework, that outweigh the harm.
24. Taking all matters raised into account, I conclude that the appeal should be dismissed.

Matthew Jones

INSPECTOR

Appeal Decision

Hearing held on 25 October 2022

Site visit made on 25 October 2022

by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 December 2022

Appeal Ref: APP/Y1110/W/21/3287921

Land at Home Farm, Pinhoe, Exeter, Devon, EX4 9JG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Waddeton Park Ltd against the decision of Exeter City Council.
 - The application Ref 21/0223/OUT, dated 8 February 2021, was refused by notice dated 13 July 2021.
 - The development proposed is described as: 'outline planning application for the construction of up to 61 dwellings and associated infrastructure'.
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. Originally, the application was made in outline form with all matters reserved except for access. However, prior to the event, the appellant indicated that they no longer wished for access to be considered, thus changing the outline application to outline with all matters reserved. A number of drawings indicate the point of access, and no objections on this matter were received from the Council. Comments were invited at the event, including interested parties. I took into account the responses received, including those presented orally at the event. After a short adjournment, I concluded that no party would be prejudiced through the removal of access as a consideration on this application. I have dealt with the appeal on this basis.

Main Issues

3. Whilst the agenda set out the main issues, I sought views from all parties present at the event to adding 'with particular regard to landscape setting' to the listed main issue. No objections were raised to the addition of this amendment. Consequently, the main issues of this appeal are:
 - the effect of the proposed development on character and appearance, with particular regard to landscape setting; and,
 - whether the proposed development would make adequate provision for: affordable housing, open space, healthcare and highways.

Reasons

Landscape setting

4. The appeal site is located within the Exeter Slopes and Hills landscape character area with a character type of Upper Farmed and Wooded Valley

Slopes, as defined by the Devon landscape character assessment (LCA). The LCA describes how this landscape feels elevated above surrounding areas, offering views across Exeter, with distinctive views, the strong topography, notable woodland and the proximity to Exeter contribute to a strong sense of place.

5. Within the first refusal reason, the Council has cited 2no. development plan policies: 'saved' Policy LS1 of the Exeter Local Plan First Review, 2005 (LP), and Policy CP16 of the Exeter City Council Core Strategy, 2012 (CS). CS Policy LS1 seeks to restrict development within Exeter's Landscape Setting, listing a number of exceptions. It is accepted that the appeal site is situated within an area to which is covered by LP Policy LS1 and the proposed development does not comply with any of the exceptions listed, and therefore conflicts with LP Policy LS1. However, the main parties agree that this policy should be given limited weight, given that it is inconsistent with the Framework, amongst other things.
6. CS Policy 16 seeks to protect the character and distinctiveness of a number of defined areas, including the hills to the north and north-west of the City. Whilst, the aims of this policy are similar to LP Policy LS1, it is not as restrictive and does not rule out development within it, albeit it seeks to direct development outside the landscape setting of the city. Additionally, reference is made towards the protection of the Exe Estuary European Site, which I shall address later in my Decision.
7. I have had regard to the Exeter Fringes Study, 2007 and the Cornwall Environmental Consultants Ltd Visual Land Parcel Evaluation 2013, particularly the section referring to Land Parcel 100-1. However, whilst the Council have submitted the Exeter Landscape Sensitivity Assessment, undertaken by White Consultants, dated August 2022, it was confirmed orally at the event by both parties that this document has not yet been adopted by the Council. Thus, for this reason, it attracts very limited weight in the determination of this appeal.
8. Both Main Parties have submitted Landscape and Visual Assessments¹ (LVAs) to support their respective positions. Additionally, I also viewed the site from the majority of locations identified in the respective LVAs and additional locations put forward by interested parties. Consequently, I am satisfied that I saw everything I need to assess the impact of the development. Additionally, whilst the proposal is for outline permission only, the effect of erecting up to 61no. dwellings on this site, and the associated domestic paraphernalia, that would be associated with a residential development can still be determined.
9. The appellant's LVA is confirmed as comprising a Verified View (VV) or Accurate Visual Representation (AVR). Current good practice has been applied in preparing the VVs/AVRs of the proposed development, where the views selected are considered to be the most representative viewpoints in the area surrounding the site. I note the conclusions of the appellant's LVA, but I consider that the development of the appeal site would have a detrimental effect on the landscape setting of Exeter through its urbanisation and the resultant effect this would have on views, particularly towards the appeal site, which despite recent development, have not been affected to a great extent.

¹ Landscape and Visual Impact Assessment by Anne Priscott Associates Ltd and LVA by Define (the appellant's LVA)

10. The appellant has referenced various appeal decisions² and judgments³ in their submission, including the decision⁴ for the adjacent site at Home Farm, now referred to as 'Phase 1'. I note comments in respect of this judgment from various parties, including the appellant. I consider that this decision, which was challenged in the courts is a material consideration in the determination of this appeal. Whilst the built environment has undoubtedly changed through the passage of time, through the implementation of approved schemes, the importance of the upper slopes to the setting of the city, which contain the appeal site, has not diminished. Nonetheless, whilst the undeveloped nature of the site was a factor in the determination of the appeal for the adjacent site, this scheme has been assessed on its own merits.
11. I am unable to share all of the main findings of the appellant's detailed LVA. Whilst I acknowledge the Distinctive Characteristics of the LCA for Exeter Slopes and Hills, listed by the appellant. I also note some of the special qualities and features associated with this area, such as a strong rural character, with woodlands, fields, hedgerows and vernacular settlements, giving rise to high scenic quality and providing an attractive setting to the city of Exeter. It is also the overall strategy of the LCA to protect the landscape's strong rural character and role as setting to Exeter.
12. The visualisations within the appellant's LVA only serve to demonstrate that the proposed development would have a significant visual impact. This is particularly apparent in the case of viewpoints 4, 6 and 7, where I cannot be certain that the proposed development would not punctuate the ridge line. I accept that tree planting would likely soften the resultant appearance of the proposed development, but given that no such scheme is before me as landscaping is a reserved matter, there is no certainty that the outcomes predicted in the appellant's LVA would be achieved.
13. In any event, whilst appreciating the extent of built development in the locality of the site, I still consider that there would be adverse landscape and visual effects caused by the proposed development, but do not agree that a planting scheme, which would take some 15 years to mature, would provide suitable or sufficient mitigation to counteract the harm created by the residential development on this site. Additionally, I am not convinced that securing any future reserved matters submission in accordance with the submitted parameter plan and limiting the height of the dwellings would ensure the acceptability of the proposed development.
14. For the reasons given above, I conclude that the proposed development would create very significant harm to the character and appearance of the appeal site and the surrounding area, with particular regard to the landscape setting of Exeter. Therefore, the scheme conflicts with character and appearance aims of CS Policy CS16 and LP Policy LS1. The scheme also fails to accord with the requirements of the National Planning Policy Framework (the Framework), particularly paragraphs 130 and 174.

² APP/Y1110/W/22/3296946 (the Clyst Road decision); APP/Y1110/W/18/3202635; APP/Y1110/W/21/3278148; APP/Y1110/A/10/2137880; APP/Y1110/W/15/3005030; APP/Y1110/W/22/3292721 and APP/V0510/W/21/3282449

³ Suffolk Coastal District Council v Hopkins Homes Ltd and Richborough Estates v Cheshire East Borough Council (Supreme Court, 10/05/2017, UKSC 37); Tesco Stores Limited v Dundee City Council (Supreme Court, [2012] UKSC 12) and Exeter City Council and Secretary of State for Communities and Local Government, Waddeton Park Limited and The R B Nelder Trust (High Court, [2015] EWHC 1663 (Admin)).

⁴ APP/Y1110/A/14/2215771

Planning obligation

15. Since the Council made its decision, it has been confirmed that after reviewing its initial request, the Council no longer wishes to pursue a contribution towards education.
16. The executed Unilateral Undertaking (UU) that has been submitted would provide 35% of the dwellings to be affordable. Concerns were raised by the Council in respect of the dwelling mixture, but there is nothing substantive to demonstrate why the mixture as proposed in the UU is not acceptable. The UU also contains obligations in relation to Open Space, Highways/Transport, including the Pinhoe Area Access Strategy, Travel Plan and an amendment to a Traffic Regulation Order. The UU also makes provision for a health care contribution, albeit this is disputed by the appellant.
17. There is scope within the UU for me to strike out the healthcare provision if I do not deem it to be Community Infrastructure Levy (CIL) compliant. The UU identifies the financial contribution regarding healthcare as 'GP Surgery Contribution' (GPSC), which would result in £559.36 to be paid per dwelling. Given the level of development approved in the area already and the existing demand on Pinhoe Surgery, ISCA Medical Practice and Barnfield Hill Surgery, the proposed development would further increase demand on such services.
18. I acknowledge that the appellant considers that monies have already been received in respect of population growth and that the GP surgeries are in private ownership. However, based on the discussions at the event and the written submissions I consider that the proposed development would give rise to additional local demand on the GP services, which should be mitigated to make the development acceptable in planning terms. The GPSC in the UU is very specific in this regard.
19. In view of the above, I consider the obligations set out in the UU are necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind. Therefore, they meet the tests within CIL Regulation 122 and those set out in paragraph 57 of the Framework. As such, I have taken them into account in reaching my decision.
20. Consequently, I conclude that there is no longer any conflict with CS Objectives 1, 3, 5, 6 and 10; CS Policies CP7, CP9, CP10, and CP18, LP Policies AP1, T1. DG5 and Exeter City Council Affordable Housing Supplementary Planning Document 2014.

Other Matters

Housing supply

21. Whilst the parties reach different figures, the Council's current supply of deliverable sites for housing is within a range of approximately 4.0 to 4.10 years. The figure of 4.0 years advanced by the appellant originates from the Clyst Road decision. As such, the Council are unable to demonstrate a five-year supply of deliverable housing sites as required by paragraph 68 of the Framework, which represents a housing shortfall. In these circumstances, Paragraph 11 of the Framework indicates that housing policies should be regarded as out of date and that there is a 'tilted balance' in favour of granting permission.

22. Paragraph 11d)(ii) of the Framework indicates that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. I discuss this further in my planning balance.

Habitats Sites

23. The appeal site is located within 10 kilometres and therefore, falling within the 'zone of influence' of the Exe Estuary Special Protection Area (SPA) and the East Devon Pebbled Heaths SPA and Special Area of Conservation (SAC). These are statutorily protected habitats sites under the Conservation of Habitats and Species Regulations 2017 (as amended).
24. It is anticipated that new housing development in this area is 'likely to have a significant effect', when considered either alone or in combination, upon the interest features of the SAC/SPA due to the risk of increased recreational pressure caused by that development.
25. The Council has undertaken a Appropriate Assessment (AA) for the site which concludes that, whilst the development has the potential to have a significant effect on the European Sites, and an adverse impact on the achievement of the conservation objectives for the sites, the impacts of the development can be mitigated through receipts from the CIL to contribute towards the implementation of measure in the South East Devon European Sites Mitigation Strategy (SEDEMS), which are designed to avoid and mitigate the adverse impacts of increased visitor pressure brought about through the population growth.
26. SEDEMS sets tariffs for residential development to contribute to mitigation measures and how they would be collected through the CIL and Planning Obligations/Unilateral Undertakings. In this instance it is proposed that payment would be made through CIL, this would be a per dwelling contribution and would be top-sliced from CIL receipts.
27. Notwithstanding the Council's findings in respect of this, as the competent authority, I am required to carry out an AA of the effect of the proposed development. However, as I am dismissing the appeal in any event, I have not needed to consider this matter further.

Other

28. I have had regard to the number of objections received from local residents and others, including local councillors as part of this appeal. I also note the views expressed by those interested parties who attended the Hearing, some of whom spoke as representatives of local interest groups, expressing a wide range of concerns including, but not limited to the following; accessibility, environmental sustainability, infrastructure, pedestrian and highway safety, site access during construction, drainage, ecology, climate change, amongst other things. However, I note that these matters were considered where relevant by the Council when it determined the planning application. Whilst I can understand the concerns of the interested parties, there is no compelling evidence before me that would lead me to come to a different conclusion to the Council on these matters.

Planning Balance

29. The appeal site is located outside the settlement boundary and is therefore within the countryside. There would be visual harm to the character and appearance of the appeal site and surrounding area. This harm would be very significant, particularly with regard to the landscape setting of Exeter and would attract very substantial weight and importance in the planning balance.
30. The delivery of market homes attracts significant weight in light of the Framework's objective of significantly boosting housing supply, and the shortfall of the Council's housing supply. In addition, securing affordable housing as part of the scheme attracts significant weight. There would also be significant economic benefits through the construction phase and the future occupation of the properties.
31. The provision of public open space, highways/transport and healthcare contributions are all necessary to make the development acceptable in planning terms and attract neutral weight. Additionally, whilst SEDEMS would likely provide suitable mitigation to ensure the integrity of habitat sites, this does not attract any weight for or against the proposed development.
32. As the site is currently undeveloped, the harm from this proposed development to landscape character, visual amenity and the landscape setting of Exeter would be permanent. I am therefore clear that the adverse impacts of granting planning permission in this instance would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. Therefore, the proposal would not constitute sustainable development with regard to paragraph 11 d ii) of the Framework.

Conclusion

33. The proposed development would be contrary to the development plan and there are no material considerations that outweigh this conflict. Consequently, with reference to Section 38(6) of the Planning and Compulsory Purchase Act 2004, I conclude that the appeal should be dismissed.

W Johnson

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Charles Banner of Counsel

Instructed by Mr Seaton

He called:

David Seaton MRTPI

Agent

Andrew Williams BA (Hons) DipLA DipUD CMLI

Define

FOR THE LOCAL PLANNING AUTHORITY:

Matthew Diamond BA (Hons) MA MRTPI

Exeter City Council

Simon Curran

Exeter City Council

Dale Cooper

Exeter City Council

Anne Priscott

Anne Priscott Associates Ltd

INTERESTED PARTIES:

Cllr Duncan Wood

Exeter City Council

Cllr Tracy Adams

Devon County Council

Jaqueline Pitcher

Local Resident

Michael Bennett

Local Resident / Exeter

Kate Jago

Greenspace Group

Local Resident / Exeter

Greenspace Group

Richard Wood

Local Resident

Gill Baker

Local Resident / Exeter

Greenspace Group

DOCUMENTS SUBMITTED AT THE HEARING

The following documents were submitted and accepted at the Hearing:

ON BEHALF OF THE APPELLANT:

- Statement of Common Ground (Addendum) – email 24 October 2022
- Suggested Conditions/Comments – email 24 October 2022
- Completed Unilateral Undertaking – email 24 October 2022
- Draft Statement of Common Ground (Addendum) – email 20 October 2022
- Draft Suggested Conditions/Comments – email 20 October 2022
- Note Regarding Unilateral Undertaking - email 20 October 2022
- Email correspondence dated 19 October 2022 - email 20 October 2022
- Unilateral Undertaking – email dated 12 October 2022
- Appeal Decision APP/Y1110/W/22/3296946 – email dated 12 October 2022
- CIL Compliance Statement – email dated 12 October 2022
- CIL Charging Schedule – email dated 12 October 2022
- CIL Proof A to H – email dated 12 October 2022
- Letter RE: 'means of access' – email dated 2 October 2022

ON BEHALF OF THE LOCAL PLANNING AUTHORITY:

- Representation from Integrated Care Board – email 21 October 2022
- Landscape Sensitivity Assessment & Land Parcel Assessment by White Consultants – email 14 October 2022

ON BEHALF OF AN INTERESTED PARTY:

- Photographs and viewpoints – Michael Bennett

****End****



Appeal Decision

Site visit made on 5 October 2022

by Matthew Jones BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 November 2022

Appeal Ref: APP/Y1110/W/22/3296067

Land South of Redhills, Exeter

- 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 ALD Developments against Exeter City Council.
 - The application Ref 21/1822/OUT, is dated 25 August 2021.
 - The development proposed is outline planning application for a residential development of up to 35 dwellings and associated infrastructure.
-

Decision

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

Procedural and Preliminary Matters

2. The planning application was submitted in outline with all matters aside from access reserved. I assessed the appeal on that basis, having regard to the drawings which accompany the appeal as illustrative, aside from where they relate to the proposed site accesses.
3. During the latter stages of the appeal the appellant submitted an appeal decision made on 11 October 2022, Ref APP/Y1110/W/22/3296946, relating to a site in Exeter at Topsham. As this decision was made after the appeal before me was submitted, and as it was of relevance, I had regard to it. In that appeal it was common ground between the main parties that the Council is unable to demonstrate a five-year supply of deliverable housing sites and has a supply of about four years. I adopted this previously agreed position for the benefit of my own assessment, as it is the most up to date that I have.
4. Similarly, the Council submitted an extract of the Exeter Landscape Sensitivity Assessment (August 2022) beyond the appeal timetable. Given its date of publication, after the submission of the appeal, and as it was of potential relevance, I also had regard to it as landscape evidence. The appellant was provided with an opportunity to comment on the document during the appeal.
5. The Council failed to determine the application subject to this appeal. However, it has since provided an officer report which sets out three putative reasons for refusal had the Council determined the application. The first two relate respectively to highway safety and the character and appearance of the area.
6. The third reason for refusal relates to the absence of an agreement to secure necessary planning obligations. Such an agreement (the S106) was latterly submitted with the appeal. The S106 seeks to secure planning obligations in relation to affordable housing, health, travel planning, habitats mitigation and off-site play provision. Where necessary, I have made further reference to these planning obligations later in my decision.

7. I am also mindful that the site is within the setting of the Grade II listed building Lugg's Farmhouse and that imposed upon me is a duty to have special regard to the desirability of preserving its setting.

Main Issues

8. In light of the above, and all other evidence before me including the submissions of interested parties, I consider the main issues to be the effect of the proposal on:
- the character and appearance of the area, with particular regard to the Alphington/Whitestone Valley Park;
 - the setting of Lugg's Farmhouse; and,
 - highway safety.

Reasons

Character and appearance

9. The appeal site is a long and steep parcel of open land comprising discrete paddocks above the public highway Redhills, at the west edge of Exeter. To the north, beyond the detached dwelling Orchard Bungalow, is Lugg's Farmhouse and its associated outbuildings. The site is within the locally designated Alphington/Whitestone Valley Park (the Valley Park). Amongst other things, Policy CP16 of the Core Strategy (adopted 2016) seeks to protect the character and local distinctiveness of certain identified areas, including the Valley Parks.
10. The site occupies the upper reaches of one of the hills that enclose Exeter. Whilst bound by a tall dense hedgerow for much of its length along Redhills, from the vicinity of the junction of Redhills and St Peters Mount the site is more open to view. It presents as an attractive and proudly set, sweeping area of soft, rural backcloth, exemplifying how rising undeveloped land forms the distinctive setting of the city. This is also emphasised by the contrast of the housing to the east of Redhills and by Redhills itself, which offers a strong demarcation of the interface between the built and natural environments.
11. The appellant's Landscape and Visual Appraisal (the LVA) suggests the site to have less visibility in wider views. I consider that the short distance views of the site are of significant value and sensitivity in this case but, in any event, the appraisal does not take into account certain longer-range viewpoints within Exeter. This includes Guildford Close, which links to other streets via public paths and from where I observed the site to be prominent. As such, I consider the LVA to undervalue the important and distinctive contribution the site makes to the contained setting of Exeter both in landscape character and visual terms.
12. Much of the housing across the site would be visible from the junction. The houses at the top west corner would be visible in wider views, such as from around Guildford Close. Given the steep terrain, it is logical that they would be accompanied by substantial engineering and regrading of the land in order to construct them, the estate roads and parking and turning areas. To create level outside spaces, it is likely that gardens would have to be terraced and therefore feature retaining walls. The overall effect on the landscape character would be intrusively urbanising, to the clear visual detriment of this part of the Valley Park and its important role within the immediate setting of the city.

13. I note that the scheme would augment and retain existing trees and boundary treatments and would improve public access into this part of the Valley Park. However, this is of little weight in the scheme's favour, given the overall level of urbanisation it would invoke upon this area of hitherto green infrastructure.
14. Accordingly, I conclude on this issue that the proposal would have an unacceptable effect on the character and appearance of the area, with particular regard to the Valley Park. It would conflict with the landscape aims of Policies CP16 and CP17 of the Core Strategy, saved Policy DG1 of the Local Plan and the National Planning Policy Framework (the Framework).

Lugg's Farmhouse

15. As a farm dwelling of 17th century origins, Lugg's Farmhouse draws a degree of significance from its rural setting. Whilst this is chiefly delivered by the former farmland directly around it, the Devon Historic Landscape Characterisation project identifies the site as part of a wider and perhaps medieval farming landscape of open strip fields. The paddocks have a noticeable grooved texture suggestive of historic ridge and furrow farming practices. When travelling to and beyond the listed building when heading southeast along Redhills, the former farmhouse is appreciated against the backdrop of the appeal site¹, which therefore makes a positive contribution to the setting of the building.
16. This perceptible interrelationship between the site and the historic farmhouse would be lost by the heavy urbanising effects of the scheme. Looking west towards the front of the listed building, its current, luxuriant forward setting would also change to one dominated by a modern suburban access road and visibility splays. As such, harm would arise to the setting of the listed building.
17. The appellant's heritage appraisal defines this as a likely 'negligible adverse' change. However, given the likelihood that the proposal would be intrusively urbanising, I consider this to be an underestimate. Strategic landscaping would not necessarily help to assimilate the scheme into the building's setting as it is the interplay between Lugg's Farmhouse and the site's legibility as historic open strip farmland which conveys significance here. The heritage appraisal does not adopt the parlance of the Framework in its conclusions. When I do so, I find less than substantial harm to the significance of the listed building.
18. That is not to be treated as a less than substantial planning objection, and the Framework informs us that great weight should be given to the conservation of designated heritage assets. Paragraph 202 requires decision makers to weigh less than substantial harm against the public benefits of the scheme, including securing its optimum viable use. That balancing exercise must take place in the context of s.66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 which sets a strong presumption against a grant of permission for development that would cause harm to the setting of a listed building.
19. The government is seeking to significantly boost the supply of housing and the scheme would contribute up to 35 new homes to the local area, half of which would be affordable housing, in a city that I can see has experienced a prolonged shortage in supply. The level of support for the planning application from interested parties is testament to that. I have no reason to question that the houses could be built out quickly. There would be short term direct and

¹ Plate 6, Heritage Statement by AC Archaeology (2021)

indirect local economic benefits during the construction phase and lasting economic benefits in association with the occupation of the housing. Exeter has a diverse array of services and facilities which would benefit through likely modest increases in their usage. The competitiveness of Exeter's economy would be enhanced. Funding secured via the Community Infrastructure Levy (CIL) would be a requirement, but nonetheless a small practical benefit. The appellant's evidence highlights the potential for modest biodiversity net gain through tree and shrub planting within the site.

20. Overall, and accepting the shortfall in Exeter's housing land supply as agreed at Topsham, the public benefits arising from the provision of up to 35 dwellings attract significant weight in the balance. However, they fall short of overcoming the harm I have identified to the setting of the listed building, to which I apportion considerable importance and weight.
21. Accordingly, I conclude on this issue that the proposal would have an unacceptable effect on the setting of Lugg's Farmhouse. It would conflict with the design and heritage aims of Policy CP17 of the Core Strategy, saved Policies C2 and DG1 of the Local Plan and the Framework.

Highway safety

22. The scheme proposes vehicular access at the northwest corner of the site with a pavement on its northwest side. To the east along Redhills a pedestrian/cycle access would also be constructed. Redhills has a 30mph speed restriction.
23. The nearest public footpath to the northwest access is on the opposite side of Redhills set down behind vegetation and is not directly accessible. The nearest footpath on St Peters Mount is well clear of the roundabout and is obstructed beyond a verge, a bollard and a road sign. Given such, there is the likelihood that pedestrians would have to walk for periods in the carriageway until segregated pedestrian space could be reached and may even feel obliged to cross the carriageway within the roundabout itself. This is a busy road environment which I note is used an entrance point in and out of the city. For these reasons, I do not consider this would be a suitably safe access solution, particularly for the elderly or those with young children.
24. 43m visibility splays would be achieved at the pedestrian/cycle access, which I understand from the appellant's Transport Statement would meet the requirement in relation to a highway with a 30mph speed limit. Nonetheless, the access would lead on to an uncontrolled crossing within a section of Redhills which is more rural and undeveloped in character, has much less of a place function than the sections to the east, and where there is a notable absence, and therefore less expectation, of people on foot. Unsurprisingly therefore, I observed a number of vehicles that were travelling at what seemed to be at best the speed limit and likely above it.
25. The proximity of the Lichfield Road junction, almost opposite the access point, adds another potential element of distraction, with drivers looking to enter Redhills bound to be focused on the potential for approaching vehicles to the east or west. Likewise, vehicles travelling along Redhills would logically focus on Lichfield Road. Even with the splays, pedestrians would not necessarily cut obvious or expected figures set against the verdant backdrop of the curving site boundary. As such, on the evidence before me, I do not have sufficient

comfort that the pedestrian/cycle access would not place residents of the proposal at unacceptable risk of collision with vehicles in the carriageway.

26. Consequently, I conclude on this issue that the proposal would have an unacceptable effect on highway safety. It would conflict with the highway safety aims of Policies AP1 and T3 of the Local Plan and the Framework.

Other Matters

27. The appellant as stated that allowing this appeal would be consistent with the approach in relation to the appeal allowed earlier this year at Exwick Lane². Yet, each proposal must be assessed on its own individual merits, and I note in that case that the site was not of particular landscape importance and there were no issues of highway safety or heritage. It has therefore had limited influence on my own assessment.
28. This site is within the influence of the Exe Estuary Special Protection Area (the SPA). It is common ground that the proposal would have likely significant effects on the integrity of the SPA through increased recreational use. I have no reason to disagree. The S106 accompanying the appeal together with the CIL is intended to secure mitigation for these effects. If I had been minded to allow the appeal it would have been necessary for me to consider this matter within an Appropriate Assessment. As I am not, I have not done so.
29. Likewise, the ecological survey work supporting the appeal found a Dormouse within the site, very close to the location of the proposed pedestrian/cycle access and the site is of district level importance in this regard. Given such, it would have been necessary for me to further consider the impact of the development on the integrity of the Dormouse, a European Protected Species.

Planning Balance

30. The scheme would conflict with the development plan when read as a whole because it would harm the character and appearance of the area, the setting of a listed building, and have an unacceptable effect on highway safety.
31. The Council cannot demonstrate a five-year supply of deliverable housing sites. As such, Paragraph 11 of the Framework states that the most important policies for determining the appeal are out-of-date and permission should be granted unless the application of policies in the Framework that protect assets of particular importance provide a clear reason for refusing the proposal. These assets include listed buildings. Consequently, given the harm that would arise to Lugg's Farmhouse, Paragraph 11 d) ii) of the Framework is not engaged.
32. Overall, the harm that would arise attracts substantial weight in the balance. There are no other considerations, including the Framework and the aforementioned public benefits of the scheme, which outweigh these harms and the ensuing conflict with the development plan. For the above reasons, and taking all other matters raised into account, I shall dismiss the appeal.

Matthew Jones
INSPECTOR

² Appeal Ref APP/Y1110/W/21/3278148



Appeal Decision

Site visit made on 28 October 2024

by A J Sutton BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 November 2024

Appeal Ref: APP/Y1110/W/24/3337298

Fernleigh Nurseries, Ludwell Lane, Exeter, Devon EX2 5AQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by A Sansom against the decision of Exeter City Council.
 - The application Ref is 23/0589/FUL.
 - The development is described as 'proposed conversion of existing nursery building/garage to a dwelling.'
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

3. The appeal site comprises garages and a store building associated with a nursery. While there are dwellings in the immediate vicinity, those are close to the lane and at the lower part of this valley. Whereas the appeal buildings are on rising ground, and are grouped with other non-residential buildings, including a commercial glasshouse and additional outbuildings to the rear. This collection of buildings is edged by rough grassland, and with an elevated position, the appeal site has a relatively open aspect. In these regards, the buildings are visually distinct from the few existing domestic properties along Ludwell Lane.
4. The site is in Ludwell Valley Park, which is one of seven Valley Parks that form part of the Exeter Green Infrastructure Network. This Park is predominately grassland, divided into a small field pattern bounded by hedges, with the occasional pocket of woodland. With these verdant features and limited built forms, the area has a positively rural character.
5. The Park is crossed by a number of footpaths, and close to the edge of Exeter, it is reasonably accessible open space that provides a pleasant sense of nature that positively contrasts with the neighbouring urban area. Also, with limited development and fringing the city, the Valley Park is an attractive landscape setting for this part of Exeter.
6. The appearance of the buildings, subject of this appeal, would improve with maintenance. However, even in their current state, as relatively low profile buildings with a distinct functional aesthetic and largely surrounded by rough

grassland, they appear relatively neutral features in this essentially rural landscape when viewed in the wider setting.

7. The proposal would convert the garage and store to a dwelling, with hardstanding at three elevations, that would include space for bins and bikes. Hardstanding may already exist at the access to the buildings, but this feature is not currently evident around other parts of the structures.
8. The proposed hardstanding areas have been reduced in comparison to a previous proposal at the appeal site. However, the hardstanding proposed in this case would still result in a significant visual change in this area. Moreover, as these areas connect to French doors at the rear of the dwelling, future occupants would likely extend them overtime. Indeed, this is a family sized dwelling, and it would be unreasonable to restrict them from doing so, as future occupants should reasonably expect to be able to sit and enjoy their outside space. For this reason, a condition to address this matter is unlikely to satisfy the tests set out in national guidance.
9. Also, the conversion would involve the creation of a rear garden, comprising a lawn enclosed by hedges. There would also be soft landscaping at the front of the dwelling. With these features and layout, the development would appear distinctly residential.
10. The proposed hedging would be a Devon hedge. While such boundaries are not uncommon in this locale, usually they are seen at the edge of fields and generally associated with agricultural uses. In this case the proposed hedge would enclose a small section of existing grassland, and the resultant garden would be located centrally in a wider field. In this position, this traditional boundary treatment would appear an oddity. Also, the proposed vegetation at the front would include an oak tree. While this is a locally common species, these natural features are usually located at field edges and in woodlands as opposed to in the centre of an open space.
11. The above oddities would be incorporated into an overtly domestic arrangement, and this would be out of keeping with this rural setting. The development would be screened by the dwellings to the front and by existing hedges in the immediate setting, such that there would only be glimpsed views from Ludwell Lane.
12. However, as illustrated by the submitted images, the proposed changes in this location would be clearly visible from the high ground to the south and intermittently when descending the footpath to the east of the appeal site. From these wider public vantage points the uncommon arrangement of this development would appear discordant and in turn visually intrusive. Moreover, with a domestic aesthetic the development would be seen as a harmful erosion of the existing rural character.
13. The submitted Structural Report indicates that the buildings are suitable for conversion. I see nothing in the evidence or on site which would lead me to dispute this conclusion. While there is support for conversions in local policy, this is subject to maintaining local distinctiveness and character.
14. In respect of this matter, the design seeks to minimise the alterations to the existing simple appearance of the outbuildings. A limited palette of materials is suggested which could be conditioned. Also, in attempt to address the visual

harms identified by an Inspector in respect of a previous proposal at the appeal site¹, the existing roof forms would be largely retained, and the central section of the buildings would only be lifted by a small amount.

15. However, the above design features would not address the incongruent layout of development in this location. Moreover, even with attempts to limit windows and openings, the arrangement of fenestration at the rear of the dwelling would be clearly domestic and combined with the other changes at the site outlined above, this new residential unit would significantly disrupt the prevailing rural appearance of this site. Conditions could not mitigate this harm. Consequently, even if I accept that the design of the dwelling is intrinsically reasonable, in this location this design would fail to maintain the local distinctiveness and character of this part of the Valley Park. It would not be a good design for this reason.
16. In light of the above, I find that the proposal would significantly harm the character and appearance of the area. In this respect, the proposal would conflict with Policy CP16 of the Exeter City Council Core Strategy and Policies H2, LS1 and DG1 of the Exeter Local Plan First Review (Local Plan). These Policies collectively, seek to protect the Green Infrastructure of Exeter, and give priority to meeting housing needs on previously developed land, where, amongst other matters, this would be without detriment to character and the quality of environment.
17. The proposal would also not accord with advice set out in the Council's Residential Design Supplementary Planning Document and provisions of the National Planning Policy Framework (the Framework) which seek well-designed places.

Other Matters and Planning Balance

18. The Council's reasons for refusal also includes concerns about satisfactory living conditions for future occupants with regards light and outlook. This concern is focussed on proposed bedroom 3 and the proximity of an Oak tree. However, there is not currently an Oak tree at the front of the buildings, and therefore this is a tree which would be part of the proposed soft landscaping for this scheme.
19. I saw plenty of space at the front of the proposed dwelling to plant a suitable tree that would not unacceptably restrict light reaching the windows at the front elevation, or that would harmfully dominate the outlook from this aspect of the dwelling. Moreover, bedroom 3 would be dual aspect, and with two windows future occupants would enjoy a reasonable level of natural light and outlook from this habitable room.
20. For these reasons, I find that the proposed dwelling would provide satisfactory living conditions for future occupants, having regard to light and outlook. In this respect, the proposal would accord with Local Plan Policy DG4 and provisions of the Framework which require a high standard of amenity for future users.
21. The Council has not raised concerns about impacts on neighbours' living conditions, parking, drainage or highways safety. However, even if I agree

¹ Appeal Ref APP/Y1110/W/22/3296927

with this, development should be acceptable in these regards, and these are therefore neutral factors.

22. The Council has clarified, with reference to a relatively recent Housing Land Supply Statement, that it is able to demonstrate the appropriate housing land supply. Based on the submitted evidence I find no reason to dispute this. That said, this is not a cap, and the proposal would contribute to the Government's objective to significantly boost the supply of homes and would also add to the mix of much needed dwellings in the area. This is a windfall site, and as a conversion, the development could be delivered quickly.
23. Energy efficiencies could be incorporated into the development and significant carbon savings achieved. Also, the ecology assessment supporting the proposal indicates that there could be biodiversity gains, and these benefits could be secured by condition. However, the social, and economic and environmental benefits outlined above would be small given the size of the development.
24. It is highlighted that the appeal site is vacant, poorly maintained and under-utilised. This may be so, but as already outlined, while this may be previously developed land, the development proposed in this case would significantly erode the existing rural character. The proposal would not maintain the areas' prevailing character and setting and would not be an effective use of this brownfield land in this regard. Moreover, I find no compelling evidence that this harmful development would be the only solution to ensure that these buildings are used. These factors considerably counter any benefit which may arise in respect of the buildings' maintenance and the change of use resulting from this development.
25. My attention is drawn to guidance and policies not in dispute. However, the limited benefits outlined above would not outweigh the significant harm that this development would have on the character of the area. This is so even when the benefits are considered collectively. The proposal would conflict with the development plan in this respect and when read as a whole.
26. The evidence suggest that the appeal site is in the zone of influence of the Exe Estuary Special Protection Area. However, as I have found other grounds to dismiss this appeal, it is not necessary to address that matter further.

Conclusion

27. For the reasons stated above and having regard to the development plan, and material considerations, including the Framework, the appeal should be dismissed.

A J Sutton

INSPECTOR