
Appeal Decision

Inquiry held on 9,10 & 11 September 2014

Site visit made on 11 September 2014

by Lesley Coffey BA(Hons) BTP MRTPI

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

Decision date: 29 October 2014

Appeal Ref: APP/Y1110/A/14/2215771

Land at Home Farm, Church Hill, Pinhoe, Exeter, Devon EX4 0AY

- 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 & The R B Nelder Trust against the decision of Exeter City Council.
 - The application Ref 13/4802/01, dated 6 November 2013, was refused by notice dated 24 January 2014.
 - The development proposed is outline planning permission for about 120 residential dwellings (C3) along with associated infrastructure and openspace (means of access only to be determined).
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Decision

1. The appeal is allowed and planning permission is granted for 120 residential dwellings (C3) along with associated infrastructure and openspace at Land at Home Farm, Church Hill, Pinhoe, Exeter, Devon EX4 0AY in accordance with the terms of the application, Ref 13/4802/01, dated 6 November 2013, and the plans submitted with it, subject to the conditions in the attached schedule.

Application for costs

2. At the Inquiry an application for costs was made by Waddeton Park Ltd & The R B Nelder Trust against Exeter City Council. This application is the subject of a separate Decision.

Procedural Matters

3. The proposal is an outline application for 120 dwellings with all matters except the access reserved for subsequent approval. The Appellant submitted a plan showing how the development might be accommodated, but the plan is for illustrative purposes only and there could be alternative layouts for the site. It nevertheless provides a useful guide when considering the proposal before me.
4. The Appellant submitted an agreement under s106 of the Act which covenants to provide 35% of the proposed dwellings as affordable housing in accordance with policy CP7 of the Core Strategy. The Council is satisfied that this would overcome its second reason for refusal. I have no reason to take a different view and I have taken this obligation into account in reaching my decision.
5. The Appellant also submitted a Unilateral Undertaking which covenants to provide mitigation works as agreed with the Highway Authority. These works

are set out in a Statement of Common Ground between the Highway Authority and the Appellant. Whilst the Unilateral Undertaking addresses the concerns of the Highway Authority, local residents remain concerned that the proposal could have an adverse effect on traffic and highway safety. I will address this matter below.

6. Following the close of the inquiry the Appellant submitted a further Unilateral Undertaking. This covenants to provide and maintain an equipped play area in accordance with a scheme to be approved by the Council. It also covenants to provide a scheme for the specification and maintenance of the informal openspace. I am satisfied that the undertaking would deliver the intended benefits and I have taken it into account in reaching my decision.
7. Prior to the exchange of Proofs of Evidence, the parties agreed a Statement of Common Ground which addressed a number of matters. These included an agreement that the most up-to-date housing supply and delivery information was set out within the Revised 2013 Strategic Housing Land Availability Assessment (2013 SHLAA). In July 2014 the Council produced the Draft 2014 SHLAA, and its Proof of Evidence relies upon the information within it. The 2014 SHLAA has not been published by the Council. The Appellant subsequently submitted a Draft Addendum Statement of Common Ground identifying the differences between the Draft 2014 SHLAA and the 2013 SHLAA. Although this was not signed by the Council it provides a useful explanation of the differences between the 2013 and 2014 SHLAA.

Main Issues

8. Taking the above matters into account and the matters raised by local residents, I consider the main issues to be:
 - The effect of the proposal on the landscaped setting of Exeter;
 - The effect of the proposal on highway safety and traffic;
 - Whether in the light of the development plan, national guidance and other material considerations, including the housing land supply position, the appeal proposal would be a sustainable form of development; and
 - Whether the proposal would set a precedent for other development which could harm the character of Exeter City.

Reasons

9. The appeal site is located adjacent to the existing residential area of Pinhoe. It extends to about 7.7 hectares and comprises two areas of land, one either side of Church Hill. The larger part of the site is located to the north-east of Church Hill and falls from about 92m AOD to around 50m AOD towards the south-east. The southern part of this area is bound by the rear of the properties at Church Hill, Broadparks Avenue, Bindon Road and Danesway. It wraps around Home Farm which is a Grade II listed building. The development on this part of the site would be served by a single vehicular access from Church Hill.
10. The smaller part of the site is situated to the south-west of Church Hill, to the rear of Bickleigh Close, Harringcourt Road and Harrington Drive. Access to this part of the scheme would be from Bickleigh Close

11. It is proposed that the upper part of the site would remain free of built development, and would be used to provide a pond which would form part of the Sustainable Urban Drainage System (SUDS). A linear park extending the length of the site is proposed to link the central, southern and north-eastern fields. The proposal would provide about 3 hectares of open space including the two play areas and the linear park. The illustrative plan includes pedestrian and cycle links across both parts of the site as well as with the surrounding area of Pinhoe.

Landscaped Setting of Exeter

12. The appeal site comes within an area identified as a Landscape Setting Area within policy LS1 of the Exeter Local Plan First Review (2005) and policy CP16 of the Exeter City Council Core Strategy (adopted February 2012).
13. Policy LS1 provides that development harmful to the landscape setting of the city will not be permitted. The accompanying text draws attention to the contribution of the hills to the north of the city to its landscaped setting. However, it is evident from the proposals plan that the boundary to the Landscape Setting Areas is tightly drawn around the northern edge of the existing urban area. Paragraph 113 of the National Planning Policy Framework (NPPF) advises that local planning authorities should set criteria based policies against which proposals for any development on or affecting any landscape areas will be judged. Policy LS1 effectively limits development to the existing urban areas, and is not a criteria based policy in accordance with the NPPF. Some areas safeguarded by policy LS1 have not been included within the landscape protection areas within the Core Strategy which was informed by the Exeter Fringes Landscape Sensitivity and Capacity Study (2007). As such the evidence base on which policy LS1 relies is not up-to-date. For these reasons I accord policy LS1 little weight.
14. Amongst other matters, Core Strategy policy CP16 aims to protect the character and distinctiveness of a number of defined areas, including the hills to the north and north-west of the City. These areas are identified on the key diagram and include the area in which the appeal site is located. The parties agree that the Key Diagram shows broad areas rather than precise boundaries. Accordingly, Core Strategy policy CP16 does not seek to prevent all development within the areas shown on the Key Diagram, but strives to ensure that development protects the character and distinctiveness of these areas.
15. The Council consider that the Fringes Study, the Visual Land Parcel Evaluation for Potential Residential Sites in Exeter, 2013 (the CEC Study) and more recently the Housing Land Review (November 2013) clearly indicate that the development of the appeal site for housing would be likely to harm the landscaped setting of the City.
16. The Fringes Study sought to assess the capacity of the landscape around Exeter to accommodate development and to identify landscapes that should be protected from change. It found that the area in which the appeal site is located (Zone 8) had limited capacity for housing due to its visual prominence, rural character and intrinsic sensitivity. It advised that only single properties in very carefully located positions should be allowed within this zone.
17. The visibility analysis within the Fringes Study was based on landform and did not make any allowance for existing buildings or vegetation. Zone 8

encompasses a comparatively large area that varies in terms of elevation and the extent to which it is visible in medium and distant views. Since there would be a range of visibility and sensitivity within this zone, the Fringes Study provides only a general guide as to the suitability of the areas within it for development.

18. The CEC Study evaluates the suitability of a number of specific sites within Exeter for residential development. It assessed the appeal site and the Appellant's adjoining land on the basis of two separate areas. The larger area on the north-eastern side of Church Hill was identified as site 100-1 and the smaller area was identified as 100-2. The latter was considered to have few visual receptors and the assessment concluded that it had low to very low visual sensitivity. The CEC Study states that such sites are likely to be the most suitable for residential development.
19. The Study concluded that site 100-1 contributed to the perception of the urban fringe, particularly the two fields on the higher ground to the north. It found that while local views were limited by tall hedge banks and other vegetation, the more elevated areas of the site were likely to be visible within more distant views. It concluded that the site had medium visual sensitivity due to its importance as part of the urban fringe and the wider views of this part of the site. The Study states that such sites could be suitable for residential development subject to adequate design and mitigation.
20. More recently the Housing Land Review (HLR) considered 17 sites within the protected landscape areas which were rejected by the SHLAA and adjoined the urban area. Each site, including the appeal site, was assessed against 8 sustainability objectives and ranked accordingly. However, the landscape assessment within the HLR relies on the findings of the CEC Study and does not provide a more detailed analysis as to the suitability of the site for residential development.
21. The Landscape and Visual Assessment (LVA) of the appeal site and the Appellant's adjoining land was prepared prior to the publication of the CEC Study and informed the layout shown on the illustrative masterplan. It identified 10 areas, broadly based on existing field boundaries. It found that the most elevated parts of the area assessed (3, 4 and 5) make a significant contribution to the wider landscape setting of the City and should be retained in their existing undeveloped form. It concluded that development on the lower slopes would be perceived as infill development and would be compatible with the settled character of the lower slopes. The development of the areas towards the middle of the site was considered to be acceptable subject to mitigation measures to ensure that development is not seen on the skyline.
22. I consider the findings of the CEC Study and the Appellant's LVA to be broadly consistent with each other. Both identified the important contribution of the undeveloped higher land towards the landscaped setting of the City. They also both acknowledged the need for careful design and mitigation on the remainder of the site. The CEC study assessed the larger part of the site in its entirety and noted that some parts of the site were associated within the urban fringe of Exeter, whilst other areas were more closely associated with surrounding development. The LVA adopted a more detailed approach and identified specific areas of the site as either suitable or unsuitable for development.

23. The site is situated on the southern side of the Pinhoe Ridge, which forms the eastern ridgeline to the north of the city. This effectively screens views into the site from the north and north-east. To the south, the extent of medium distance views is contained by the Monkerton Ridgeline. Accordingly the most significant views are those from the south-west towards the site. The lower parts of the site are screened by development within the foreground. The Council accepts that the proposal would not interrupt the skyline. It nevertheless considers that any development towards the centre of the site could effectively screen the upper part of it from view due to the height of dwellings, and would thereby harm the setting of the City.
24. For the reasons given in the CEC Study the development on the smaller south-western part of the site would be unlikely to have a significant effect on the setting of the City or the character of the wider area. Due to the lower level of the land the dwellings proposed on the lower slopes of the larger site would be substantially screened by the surrounding dwellings. The CEC study noted that there were local views of the site from gates and gardens, as well as some views of the upper part of the site from within the local area. However, these local views would not have a significant effect on the landscaped setting of the City.
25. The Council identified a number of viewpoints which it considered to be representative of the effect of the development on the setting of the City. In views from Cumberland Way (viewpoint LVA L1) the most noticeable areas are areas 1 and 8 (as identified with the Appellant's LVA). Area 1 is identified as site 100-2 within the CEC study and is not considered to be unsuitable for residential development. Area 8 adjoins the residential properties in Bindon Way. The illustrative plan indicates that development on this part of the site would be confined to a single row of dwellings separated from other dwellings on the site by the linear park, and the poplar trees within this part of the site. Therefore these dwellings would not form a continuous belt of development and any distant views would be filtered by vegetation. Furthermore, the upper part of the site and the adjoining land would remain undeveloped.
26. In views from Hollow Lane (viewpoint LVA L4), development on some of the lower slopes would be noticeable. However part of the intervening land has been allocated for a proposed school and therefore the extent of such views is likely to diminish in the future. In the absence of the proposed school, some of the development within areas 2, 8 and 9 may be noticeable, but these views would be broken-up by significant areas of landscaping, including the linear park. Any views from this location would be distant views and the upper slopes and the ridge line would remain as distinct features within the landscape. Consequently, subject to an appropriate layout and scale, the development of these areas would not have a significant effect on the landscaped setting of the City.
27. The scope for views from Tithebarn Lane to the south-east (viewpoint LVA L5) is dependent on the height of the hedge along Tithebarn Lane, and would only be possible when the hedge is relatively low. Whilst it is possible to identify the appeal site from this location the views are of a distant nature. Subject to the upper slopes remaining free of development there would not be a significant effect on the setting of Exeter. I also viewed the site from the vicinity of the Pinhoe Trading Estate to the west. Whilst the general locality of

the appeal site could be discerned, any development on the appeal site would have a negligible effect on these views.

28. The Council also submit that the current undeveloped form of the site provides a 'Green Finger' within the landscape, the loss of which would be harmful to the character of the area. The separation the site provides between different areas of residential development within Pinhoe is discernable in aerial views of the locality. However, the north-eastern part of the site is situated at a much higher level than Church Hill and is bound by high banked hedgerows. Therefore other than in the medium distance views considered above, any separation that the site provides within the surrounding area is predominantly confined to private views. Due to the sloping nature of the site and the screening provided by the mature trees and hedgerows, individual views from the surrounding properties are generally confined to small areas of the site and some of these views are limited to views from upper floor windows. Accordingly, when viewed in the context of the local topography and existing development in the locality the proposal would not result in the loss of a 'Green Finger' of land.
29. Although it may perhaps be possible to identify residential development on the appeal site in medium distance views, such development is not intrinsically harmful to the setting of the City. Only limited areas of the proposal would be noticeable from any particular location. The considerable areas of openspace in the form of balancing ponds, play areas, a linear park and other areas of landscaping would ensure that the proposal would not form a continuous band of development across the site. Provided the significant trees and hedgerows on the site are retained, and the arrangement and height of the proposed dwellings reflect the topography of the site, the proposal would not have an adverse effect on the landscaped setting of the City, or the outlook from the surrounding properties. I therefore conclude that the proposal would not harm the landscaped setting of Exeter and would comply with Core Strategy policy CP16.

Highway Safety and Traffic

30. At the time of the application, the Highway Authority was concerned that in the absence of mitigation the additional traffic arising from the proposal, in conjunction with other previously permitted development within the surrounding area, could give rise to queuing on the B3181. Following the refusal of planning permission the Appellant submitted two alternative mitigation schemes. Scheme A proposes a one-way operation of Langaton Lane into the mini-roundabout. However, the delivery of this scheme is dependent on a Traffic Regulation Order and there is no certainty that this would be agreed. The alternative scheme proposes amendments to the junction geometry to accommodate right turning traffic. Both schemes have been subject to a road safety audit and no safety issues were raised. The Highways Unilateral Undertaking covenants to provide either scheme A, or scheme B, in conjunction with the traffic calming measures in the vicinity of Danesway that comprise scheme C.
31. The Unilateral Undertaking would also provide a travel plan to encourage future residents to use sustainable transport. The Highway Authority is satisfied that the proposal would not have an adverse effect on the highway network subject to the implementation of the measures specified within the Unilateral

Undertaking. No persuasive evidence has been submitted to convince me that this would not be the case.

32. Notwithstanding this, local residents raised a number of concerns in relation to traffic and highway safety. In places Church Hill is very narrow (about 3.3 metres wide), meaning that there is insufficient room for cars to pass each other, and that cars pass very close to pedestrians. Due to the hedges on either side of the road there are few places where pedestrians can safely wait for cars to pass. Church Hill is subject to a constant flow of traffic throughout the day. Local residents suggest that it is used by about 330 cars a day during morning peak hour and are concerned that the appeal proposal could exacerbate the existing situation.
33. The appeal proposal would be likely to give rise to some increase in the number of vehicles using Church Hill. However, when considered in the context of the existing traffic flows the increase would not be significant. Due to the proposed pedestrian links with the other areas of Pinhoe, and the information provided as part of the travel plan, it could be that the number of vehicle movements emanating from the appeal site would be lower than anticipated within the Transport Assessment.
34. The appeal proposal would provide a formalised priority system. This would involve narrowing part of Church Hill to a single lane, and widening part of it to allow vehicles to wait for those with priority to pass. There was concern that there was insufficient visibility along the length of the priority scheme, but it was confirmed at the site visit that this was not the case. These changes would also provide some benefits for pedestrians in terms of footpaths close to the appeal site, and adjacent to the area where the road would be narrowed. The priority scheme, together with the proposed traffic calming measures close to the site, and those that comprise scheme C, would be likely to reduce traffic speeds on this part of Church Hill. Overall, when considered together with the pedestrian links which form part of the appeal proposal, the scheme would be beneficial for pedestrians.
35. Some residents living towards the southern end of Church Lane advise that cars use their private access to wait for other vehicles to pass. There is no evidence to suggest that the appeal proposal would exacerbate this situation and the proposed priority scheme may help to alleviate this problem.
36. I therefore conclude that subject to the implementation of the measures within the Unilateral Undertaking and the provision of a priority scheme, the proposal would not have an adverse effect on highway safety or traffic.

Housing Land Supply and Sustainability

37. The parties differ as to the level of previous housing completions and the extent of the housing land supply within Exeter. The essential difference between the parties is their approach to the inclusion of student housing. The number of students within Exeter has increased from about 13,369 in 2006/2007 to about 19,325 in 2013/2014 and students currently comprise about 16.5% of the population.
38. Core Strategy policy CP1 requires the delivery of at least 12,000 dwellings over the plan period 2006 - 2026. This figure was derived from the evidence base of the Draft Regional Spatial Strategy for the South West (2006) (RSS).

Although the RSS did not progress to adoption, following an Examination in Public (EIP) the panel proposed a figure of 12,000 dwellings for Exeter City. The parties agree that the housing requirement within the Core Strategy did not include provision for the accommodation needs arising from the growing number of university students within Exeter.

39. At the time of the RSS there were about 1,184 homes within Exeter City entirely occupied by students. The Council explained that although the housing requirement did not include specific provision for student housing, it projected the future housing needs of those students within market housing based on the household formation rate for their age demographic. Due to the majority of students falling within the 18-22 age group there would be a relatively high household formation rate throughout the plan period. As such, the adopted housing requirement includes an element of growth in relation to those students resident within general market housing in 2006.

Student Accommodation

40. The NPPF sets out the national planning policy context in relation to housing. Amongst other matters it seeks to significantly boost the supply of housing and deliver a wide choice of high quality homes. Paragraph 47 is clear that local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements. The intention is to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land.
41. Paragraph 50 of the NPPF requires local planning authorities to plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community. In particular, they should identify the size, type, tenure and range of housing that is required in particular locations, reflecting local demand. Thus there is a qualitative as well as a quantitative requirement for housing.
42. The Council submits that the figures within the Draft 2014 SHLAA provide the most accurate assessment of housing supply and delivery in that they are based on the most recent and up-to-date information available. The principle difference between the 2014 SHLAA and previous SHLAAs is that it includes all student accommodation schemes within the housing delivery and housing land supply figures. It therefore shows 914 additional historic completions over the period 2009/2010 and 2013/2014. As a consequence it demonstrates an oversupply of 169 dwellings for the period up to 2013/2014, whereas the 2013 SHLAA showed a shortfall of 749 dwellings over the same period. These additional dwellings primarily comprise student schemes previously excluded from the housing supply. The Council's decision to include these dwellings (and to adjust the housing supply retrospectively) was prompted by the publication of the Planning Practice Guidance (PPG) in March 2014. It considers that the approach within the 2014 SHLAA is consistent with the advice within the PPG and that within the Core Strategy Inspector's Report.
43. Paragraph 3/38 of the PPG advises that all student accommodation, whether it consists of communal halls of residence or self-contained dwellings, and whether or not it is on campus, can be included towards the housing requirement, based on the amount of accommodation it releases in the housing market.

44. The Council submit that the provision of student accommodation releases housing that would otherwise be occupied by students and thereby indirectly releases accommodation within the housing market. For this reason it believes that all student accommodation should be included within the housing delivery and housing land supply figures. This view is not consistent with the PPG because it is not based on any assessment of the extent to which the provision of student accommodation has released general market housing.
45. The number of fulltime students within Exeter has increased substantially in recent years. Based on the figures within *SPD Houses in Multiple Occupation* (amended January 2014) the number of general market dwellings identified as exempt from Council Tax (predominantly student housing) increased by about 1527 in the period between 2006 and May 2013. The SPD explains that this figure includes about 750 private student cluster flats and studios. The Council state that the more recent evidence indicates that purpose-built student accommodation only comprises about 637 of these dwellings. By May 2014 the number of Council Tax exempt dwellings had increased to 2984, and the Council suggest that 1096 of these comprise purpose-built student accommodation.
46. Whilst it would seem that there has been a reduction in the number of general market dwellings occupied by students between May 2013 and May 2014, the growth in the number of students in recent years has significantly exceeded the provision of student accommodation. As a consequence there are at least 700 additional general market dwellings occupied by students by comparison with the commencement of the plan period.
47. Where the student population is relatively stable, and the number of general market dwellings occupied by students declines as a consequence of the provision of student accommodation, I consider the inclusion of such accommodation as part of the housing supply would be consistent with the guidance within the PPG. However, within Exeter, due to the considerable increase in the number of students relative to the provision of purpose-built student accommodation, there has not been a reduction in the number of general market dwellings occupied by students. On the contrary, there has been a significant increase. I acknowledge that this situation may change in the future should the delivery of student accommodation significantly exceed the increase in the size of the student population. However, that is not the case at present and there is no evidence to show that the provision of student accommodation has released general market housing within Exeter. Therefore the inclusion of purpose-built student accommodation as part of the housing supply is not consistent with the advice at paragraph 3/38 of the PPG.
48. The Council refer to paragraph 21 of the Core Strategy Inspector's Report. This states that it was debateable whether or not the new privately developed student units should be counted towards the City's housing land supply. The Inspector concluded that clusters of self-contained student accommodation should be counted towards housing supply, whereas communal accommodation should not. It is however, apparent that the Inspector understood that the University intended to meet most of its future student housing needs on University owned land on and off campus. She also anticipated that the Council's approach to student accommodation would be refined within the emerging Development Management DPD.

49. On the basis of the submitted evidence the reason for the Core Strategy inspector's view in relation to the inclusion of student housing is unclear. Based on the Council's approach 4969 dwellings have been delivered to date and of these 1510 comprise student accommodation. The Council submitted no evidence to show how this high proportion of student accommodation would reflect local demand for housing in accordance with paragraph 50 of the NPPF. Furthermore, the Inspector's Report pre-dates the publication of the NPPF and the PPG. The NPPF represents up-to-date Government planning policy and must be taken into account where it is relevant to a planning application or appeal. Paragraph 47 of the NPPF requires local plans to meet the full, objectively assessed needs for market and affordable housing in the housing market area. Since student accommodation requirements did not form part of the objectively assessed need, the provision of such accommodation would not contribute towards meeting the identified housing requirement. Therefore to rely upon student accommodation as a component of housing supply would not be consistent with paragraph 47 of the NPPF.
50. I therefore conclude that student accommodation should not be included as part of the housing land supply.

Housing Land Supply

51. The 2013 SHLAA identified 4051 completions for the period up to 2013/14 against a target of 4800. This includes about 596 purpose-built student dwellings. The higher figure within the 2014 SHLAA in relation to completions is due to the inclusion of additional student accommodation. If student completions are removed from the 2013 SHLAA the number of dwellings delivered falls to 3455 and there is a residual requirement for 8545 dwellings for the remainder of the plan period.
52. The Council's housing land supply comprises sites where construction has commenced; sites with planning permission where construction has not yet commenced and sites subject to a resolution to grant planning permission; sites without planning permission identified within the 2014 SHLAA, and an allowance for windfall sites.
53. Based on the figures within the 2013 SHLAA, sites with planning permission, or a resolution to grant planning permission, would deliver 2281 dwellings (excluding student accommodation) within the next five years. The more recent evidence within the 2014 SHLAA provides a figure of 2436. The Appellant considers that not all of these sites are likely to be viable and that no allowance has been made for non-implementation of these permissions, or for resolutions that may not be converted into planning permissions. He therefore suggests that a lapse rate of 10% should be applied to such sites.
54. In arriving at the figures within the 2014 SHLAA the Council contacted the applicants/agents in relation to each of the sites for 5 or more dwellings to obtain information on the first and final dwelling completions. On smaller sites about 50% of applicants/owners were contacted. On the basis of this information a number of sites with planning permission were excluded from the five year housing land supply.
55. Although there is no certainty that all of the sites identified by the Council will be delivered, I consider that its approach to the assessment of these sites to be reasonably robust. Footnote 11 to paragraph 47 of the NPPF states that sites

with planning permission should be considered deliverable until permission expires, unless there is clear evidence that schemes will not be implemented within five years. In the absence of such evidence, and bearing in mind the Footnote 11 advice, there does not seem to be justification for applying a discount of 10% as suggested by the Appellant.

56. Turning to sites without planning permission, but within the SHLAA. The Council assessed 8 of the 119 sites within the SHLAA as being deliverable either wholly, or in part, in the next five years. This assessment took account of discussions with the landowners/agents and pre-application discussions with the Council. The Council suggest that these sites have the potential to yield 416 dwellings over the next five years.
57. Paragraph 3/31 of the PPG advises that sites without planning permission can be included in the five year housing land supply. However, local planning authorities are required to provide robust, up-to-date evidence to support the deliverability of sites, ensuring that their judgements on deliverability are clearly and transparently set out. Footnote 11 states that to be deliverable, sites should be available now, offer a suitable location for development, and be achievable with a realistic prospect that housing will be delivered on the site within five years and in particular that the development is viable.
58. It is anticipated that a planning application for the residential development of the Exmouth Junction/Prince Charles Road site (site 23) will be submitted in the near future, however, a replacement depot will be necessary to facilitate this scheme. Whilst I do not doubt the Council's evidence in relation to the planning application, it would seem that proposals for the depot are less advanced. Therefore on the basis of the available evidence I am not persuaded that these dwellings will be delivered within the next five years.
59. Sites 40 (North and South of Harts Lane), 41 (The Land west of Pilton Lane) and 46 (Hill Barton Farm, Hill Barton) all form part of the Monkerton/Hill Barton Strategic Allocation within the Core Strategy. Site 40 is the subject of a current full planning application and is expected to deliver 160 dwellings during the next five years. Although the delivery of these dwellings is dependent on the provision of the Tithe Barn link road, this work is currently in progress, and it is anticipated that it will be complete by March 2015. Therefore the provision of the link road will not be a constraint on the future development of the site. I therefore consider that there is a reasonable prospect that the dwellings on this site will be delivered within the next five years.
60. Although there is an appeal in relation to 41 retirement dwellings at site 41, the Council does not seek to include these as part of the housing land supply. However, there is a full planning application in relation to another part of the site. Given the allocation of the site for housing within the Core Strategy and the developer's stated intention of commencing work in late 2014, I consider that there is a realistic prospect of these dwellings being delivered in the next five years. Site 46 is also part of the strategic allocation and is anticipated to make a modest contribution of 9 dwellings.
61. Site 60B (Land East of Railway, Old Rydon Lane) was considered by the SHLAA panel not to be achievable until years 11-15. The site forms part of the Newcourt Strategic allocation and the owner has recently submitted an outline application for the site. The Council expect the site to deliver 62 dwellings in the next five years.

62. I acknowledge that the Council has sought to make a robust assessment of sites and identify those with a realistic prospect of delivery within the next five years. It has set out its judgements on deliverability of these sites in a clear and transparent manner. However there is insufficient evidence to be confident that the dwellings on sites 23 and 60 will be built within the next five years. On the available evidence, I consider that these 99 dwellings should not be included in the five year supply and the contribution from sites without planning permission should be reduced to 317.
63. The NPPF provides that local planning authorities may make an allowance for windfall sites in the five year supply if they have compelling evidence that such sites have consistently become available in the local area and will continue to provide a reliable source of supply.
64. The Appellant submits that the introduction of a CIL charging regime in December 2013 and the increase in the proportion of affordable housing required from 25% to 35% on sites with 3 or more dwellings is likely to have an impact on the viability of potential windfall sites and may therefore reduce the number of sites coming forward.
65. The Council's evidence in relation to windfall sites relies on the inclusion of historic student accommodation completions. The 2014 SHLAA suggests that windfall sites will deliver 763 dwellings over the next five years compared with 497 within the 2013 SHLAA. The Council's assessment includes an allowance for development on garden land although the inclusion of such land conflicts with paragraph 48 of the NPPF.
66. There is no justification within the 2014 SHLAA for the inclusion of windfall sites, it simply states that the text to support the prediction has yet to be completed. Table 2 of Ms Smith's evidence aims to analyse previous windfall completions. It shows that just over 50% of all completions since 2004/2005 have occurred on windfall sites and have delivered an average of 313 dwellings a year. I have some serious concerns as to the accuracy of Table 2 since it refers to the number of completions on sites identified within a published SHLAA for the entire period from 2004/2005 onwards, despite the fact that the Council's first SHLAA was published in 2009. It also relies on the contribution of student accommodation to housing delivery, which for the most part has been assessed as development on windfall sites. Moreover, no evidence was provided to persuade me that sites would continue to come forward at the rate predicted by the Council.
67. The 2013 SHLAA includes a windfall allowance of 497 for the five year period up to 2018/19. It differs from the 2014 SHLAA in that it does not include development on garden land or historic student completions. Although there is limited evidence that such sites will continue to be available, the projected contribution of windfall sites to housing supply is based on a detailed analysis of past trends. It therefore provides a considerably more reliable assessment of the potential of such sites by comparison with the 2014 SHLAA.

Conclusions on housing land supply

68. I consider that sites with planning permission, or a resolution to grant planning permission, will deliver 2436 dwelling within the next five years. Sites within the SHLAA but without planning permission could deliver a further 317 dwellings. In addition windfall sites could potentially deliver a further 497

dwellings. On this basis, the five year housing land supply would be sufficient for about 3250 dwellings.

69. The residual housing requirement of 8545 dwellings would require the delivery 712 dwellings a year, of which 3560 should be delivered in the next five years, assuming that the shortfall is spread over the entire plan period. However, if the shortfall is added to the housing requirement for the next five years it would require the delivery of 4345 dwellings (869 dpa). Such an approach is favoured by the Appellant and would be consistent with the NPPF and its key objective to significantly boost the supply of housing. It is also favoured by the Planning Practice Guidance and also the Secretary of State in most appeal decisions because it deals with the issue of past delivery failures promptly over the short-term.
70. In addition to five years worth of housing against their housing requirements, paragraph 47 of the NPPF also requires local planning authorities to provide an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. It also states that where there has been a record of persistent under-delivery of housing, local planning authorities should increase the buffer to 20% (moved forward from later in the plan period).
71. The Core Strategy period dates back to 2006 and the target of 600 dwellings per year has only been exceeded for one year since the start of the plan period. However, between 2006 and the adoption of the Core Strategy in 2012 the Devon Structure Plan was the relevant development plan. It established an annual requirement for 447 dwellings and this was met in all but two years, and was substantially exceeded in 2006/2007.
72. The Council would have been aware of the housing requirements within the emerging Draft RSS and following the EIP in 2007 the emerging figure of 600 dwellings a year carried considerable weight. It was the figure put forward to the Core Strategy EIP in 2011. Although the Council would have been aware of the higher targets within the emerging Core Strategy, these did not carry the same weight as the development plan policies. When assessed against the development plan targets in place, it is debateable whether there has been a record of persistent under-delivery in that the Council failed to meet the relevant target in four out of the eight years of the plan period. However, taking account of the over-supply relative to development plan targets in some years I consider that on balance this does not amount to a persistent record of under-delivery and the 5% buffer should apply. This would increase the five year housing land supply requirement to 4495. On this basis the Council has a housing land supply sufficient to deliver 3.6 years of housing. Even if the shortfall was spread across the remainder of the plan period the Council would still not have a five year supply of housing land. The current deficit in housing provision and the contribution that the appeal proposal would make in addressing it is a strong material consideration in favour of the appeal proposal.

Sustainable Development

73. At the heart of the NPPF is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking. There are three dimensions to sustainable development, economic, social and environmental. Paragraph 49 of the NPPF

states that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. It also requires housing applications to be considered in the context of the presumption in favour of sustainable development.

74. Local Plan policy LS1 is a policy relevant to the supply of housing in so far as it limits the areas where development will be permitted. Although Core Strategy policy CP16 may restrict the areas where housing development can occur, it is primarily concerned with the protection of areas for their landscape quality, as such it requires an assessment of the effect of any proposals on the character and distinctiveness of a number of defined areas. I therefore do not consider it to be a policy for the supply of housing.
75. The proposal would be socially sustainable in that it would provide 120 new dwellings, 35% of which would be affordable dwellings. It would also benefit the local community through the provision of pedestrian links through the site, the linear park and the surface water mitigation scheme. Economically, the development would bring short-term advantages in respect of jobs, and in the longer term it would ensure that housing is provided to meet identified housing needs and support growth of Exeter.
76. The appeal site occupies an accessible location within walking distance of bus services to and from Exeter City centre, and some local services. The proposal would not harm the landscaped setting of the city. Through the proposed links with the surrounding area it would encourage walking and cycling. It would also contribute to the green infrastructure sought by Core Strategy policy CP16 through the provision of the linear park and openspace. Overall, I conclude that the proposal would be socially, environmentally and economically sustainable.

Precedent

77. With the exception of Local Plan policy LS1, I have found above that the proposal would not conflict with national or local planning policy, including policies intended to safeguard the landscaped setting of Exeter. I also found that the appeal proposal would be sustainable development. For the reasons given above, policy LS1 is out of date and I have accorded it little weight. Therefore in accordance with the guidance at paragraph 14 of the NPPF the proposal should be approved. Consequently the appeal proposal would not set an undesirable precedent for other development that would conflict with the relevant national and local planning policies.
78. The HLR ranked the appeal site ninth out of seventeen sites on the basis of a number of sustainability criteria. The Council consider that if the appeal is allowed it would be difficult to resist the development of any sites identified in the HLR as being more sustainable by comparison with the appeal site. Any future proposals in relation to these other sites would need to be considered on their own merits in the light of the prevailing national and local planning policies and any other material considerations, including any potential harm to the surrounding landscape.

Other Matters

Biodiversity & Ecology

79. The appeal site is not covered by any specific designations in relation to wildlife or habitats. The Appellant submitted a Preliminary Ecological Appraisal and Extended Phase 1 Habitat Survey. Surveys to identify the extent to which bats and reptiles were present on the site were also conducted. Eight species of bats flying across the site were identified.
80. Some local residents were critical of the survey in that it did not include a dormouse survey, despite the fact that dormice have been noted within an area 1-1.5km to the south of the appeal site. Paragraph 99 of *Circular 06/2005: Biodiversity And Geological Conservation – Statutory Obligations And Their Impact Within The Planning System* advises that the presence or otherwise of protected species on a site should be established before planning permission is granted. It also states that bearing in mind the cost and delay that might be involved, developers should not be required to undertake surveys unless there is a reasonable likelihood of species being present and affected by the proposed development.
81. The Phase 1 Habitat Survey found an absence of records in relation to dormice within the Devon Biodiversity Record Centre. The Appellant's ecologist also undertook recent surveys at Pinhoe Quarry to the west and Old Park Farm to the north two sites, both of which are situated close to the appeal site. Neither of these surveys found any evidence of dormice. Therefore the likelihood that dormice are present on the appeal site is low. The majority of the appeal site is grazed by cattle, therefore the most likely location for any dormice would be within the hedgerows, which it is intended to retain. Therefore there would be minimal potential for disturbance and should there be any dormice present on the site, they would be unlikely to be affected by the development. In these circumstances I do not consider that a survey is necessary. Nevertheless I consider that a condition requiring the retention of the hedgerows would safeguard any potential dormouse habitat.
82. It is also suggested that the bat surveys were inadequate due to their duration. The bat surveys were carried out by licensed bat workers and noted at least eight bat species including the common pipistrelle, soprano pipistrelle, noctule, *Myotis spp.*, serotine, long-eared (*Plecotus spp.*) barbastelle and lesser horseshoe. Whilst the walked transect surveys lasted for about two hours, the survey included automated static detector surveys which were of longer duration. I am therefore satisfied that the surveys provide a reasonable indication as to the extent of bat activity on the appeal site.
83. In the light of the survey results the Appellant proposes a Biodiversity Mitigation and Enhancement Plan. This will include a method statement in relation to the removal of the buildings; the retention of mature oak trees within hedgerow boundaries to retain features for potential roosting sites and foraging habitat; the retention of hedgerows within the site (or compensation where impacts are unavoidable); a lighting plan designed to minimise disturbance to bat species which avoid areas of artificial illumination; the creation of areas of new habitat for foraging bats and a management plan which includes appropriate long-term management of retained and created

ecological features such as hedgerows. Subject to these measures the proposal would be likely to have a minimal effect on the bats on the appeal site.

84. Despite suggestions to the contrary, a reptile survey was conducted. It found a small population of grass snakes and slow worms on the site, and noted that their distribution was restricted to the boundaries with gardens. The Appellant proposes the erection of a reptile fence along specified boundaries, followed by a programme of intensive trapping on the site side of the boundaries. Therefore having regard to the proposed mitigation measures, including the Biodiversity Mitigation and Enhancement Plan, I conclude that the proposal would be unlikely to have a significant effect on the reptiles on the appeal site.
85. The provision of substantial areas of landscaping, including the proposed park would be likely to provide an enhanced habitat for wildlife over that which exists at present. I am therefore satisfied that subject to a Biodiversity Mitigation and Enhancement Plan the proposal would not significantly harm wildlife in the vicinity of the appeal site.

Flooding

86. At present surface water run-off from the highway and the surrounding fields flows down the highway, and is then diverted through the residential properties on the western side of Church Hill. In the past, the extent of the flows has been considerable, particularly during times of heavy rainfall. A previous scheme to alleviate this flooding was permitted in 2011, but was not implemented.
87. The appeal scheme proposes a Sustainable Urban Drainage Scheme (SUDS) which will include three attenuation ponds to manage surface water runoff from the site. These measures would reduce the extent of surface water run-off at times of heavy rainfall to allow a controlled discharge into the drainage system. South West Water confirm that the downstream sewers have sufficient capacity to accommodate the proposed dwellings and considers that the proposal would have a significant beneficial effect on surface water flows in the area. The scheme would allow for the management of the existing surface water problems and would ensure that the proposal would not lead to any increased pluvial flood risk in the locality. In addition the scheme would help to alleviate the problems currently experienced by residents on the western side of Church Hill.

Setting of listed buildings

88. The appeal site is adjoined by two listed buildings, Home Farm and Jonas Pyne. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special regard to be had to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess. Paragraph 132 of the NPPF requires great weight be given to the conservation of heritage assets, including listed buildings. It advises that the significance of the asset can be harmed or lost through development within its setting.
89. Home Farm adjoins the north-eastern part of the site and is accessed from Church Hill. It is a cob farmhouse dating from the 16 century. The existing curtilage buildings within Home Farm largely screen the house in views from the north and east. Due to the height of the hedges and banks, views from the

west are limited to the access point. The land to the south of the access does not form part of the appeal site and would be retained in its current open form. The illustrative plan shows an area of openspace to the north of the existing access. Therefore the existing open aspect that contributes to the setting of Home Farm in views from the west would be retained. The illustrative layout shows the proposed dwellings to the south of Home Farm would be separated from it by about 70 metres. Due to the change in levels these dwellings would occupy considerably lower land by comparison with the listed building and would not have a significant effect on the setting of Home Farm.

90. Jonas Pyne fronts onto Church Hill. It dates from the early 19 century. It has a roughcast finish with thatched roof. Views of this listed building are confined to Church Hill and the appeal site does not make a significant contribution to its setting. Consequently the appeal proposal would not harm the setting of this building.
91. The Appellant and the Council agree that the appeal site could be developed in such a way as to protect the setting of Home Farm and Jonas Pyne in a manner in accordance with the Framework. I have no reason to take a different view and conclude that there would be no significant harm to the setting of these listed buildings.

Conditions

92. The Council put forward a number of conditions which I have considered in the light of advice at paragraphs 203 and 206 of the NPPF and the PPG. I agree that reserved matters need to be submitted for approval. The proposal should be carried out in accordance with plan 3007/001C in order to ensure a satisfactory means of access.
93. Details of the design and appearance of the dwellings are reserved matters, therefore a separate condition requiring the submission of materials is not necessary. For the same reason, an additional condition specifying the level of detail required in respect of the landscape scheme is also unnecessary. A condition requiring the submission of cycle parking arrangements is not required because this would be addressed within the layout of the site.
94. The existing trees and hedges form an integral part of the existing landscape and I agree that they should be retained in order to ensure that the development integrates with its surroundings and in the interests of biodiversity. For the same reason protective fencing should be erected around the trees on the site in accordance with the submitted Tree Protection Plans and Arboricultural Method Statement. A Biodiversity Mitigation and Enhancement Plan should be submitted for the reasons given above.
95. In order to safeguard the amenity of surrounding residents and to limit the effect of the proposal on the highway network, construction hours should be limited and a Construction Environmental Management Plan should be submitted. Investigations found no evidence of contaminated land, however a condition detailing measures in the event that any unexpected contamination is discovered is required.
96. A condition in relation to the details of the highway infrastructure on the appeal site is un-necessary since these details will form part of the reserved matters.

Details of the proposed traffic calming measures to Church Hill should be submitted for approval.

97. I agree that the proposal should meet the Code For Sustainable Homes in accordance with policy CP15 of the Core Strategy. In order to avoid increasing the risk of flooding, it is necessary to limit the rate of surface water run-off from the development to no more than that which occurs at present. Although the Appellant proposes the use of a sustainable drainage scheme, further details are necessary and should be submitted for approval.
98. Insufficient justification was provided for a condition requiring the the provision of public art as part of the proposal.

Conclusion

99. I have found above that the proposal would not harm the landscaped setting of Exeter and subject to the provisions of the Unilateral Undertaking would be acceptable in terms of its effect on highway safety and traffic. The proposal would deliver much needed housing within Exeter and would represent sustainable development.
100. For the reasons given above I conclude that the appeal should be allowed.

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

David Corsellis	Stevens Scown Solicitors
He called	
Chris Britton	Landscape Consultant
David Seaton	Planning Consultant
Karl Von Webber	Highway Consultant

FOR THE LOCAL PLANNING AUTHORITY:

Richard Langham	Of Counsel
	Instructed by Corporate Manager of Legal Services Exeter City Council
He called	
Roger Clotworthy	Planning Officer
Richard Short	Planning Officer (Presenting Katherine Smith's Proof of Evidence)

INTERESTED PERSONS:

Councillor Megan Williams
Moir MacDonald
Elizabeth Escott
Helen Radway
Linda Marchant

DOCUMENTS SUBMITTED AT INQUIRY

- 1 Location of suggested viewpoints submitted by the Appellant
- 2 Roger Clotworthy summary of proof of evidence
- 3 Core Strategy Key Diagram submitted by the Local Planning Authority
- 4 DCLG Household projections update (April 2013) submitted by the Appellant
- 5 Neighbourhood population statistics submitted by the Appellant
- 6 E mail from local resident submitted by Moira MacDonald
- 7 Submissions in relation to flooding submitted by Moira MacDonald
- 8 Submissions in relation to highways matters submitted by Moira MacDonald
- 9 Statement of Common Ground in relation to heritage matters
- 10 Secretary of State's proposed changes to RSS dwelling numbers submitted by the Appellant
- 11 Core Strategy policy CP15 submitted by The Local Planning Authority

PHOTOGRAPHS

View of appeal site from Tithebarn Lane submitted by Moira MacDonald

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Schedule of Conditions

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) In respect of those matters not reserved for later approval the development hereby permitted shall be carried out in accordance with the proposed access scheme shown on plan no. 3007/001 Rev C.
- 5) Any trees and hedges on or around the site shall not be felled, lopped, or removed without the prior written consent of the local planning authority.
- 6) The erection of fencing for the protection of any retained tree shall be undertaken in accordance with the tree protection plans numbered 03893 TPP, appended to the Arboricultural Impact Assessment Report dated 18/06/2013, before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written approval of the local planning authority.
- 7) Prior to the commencement of development a Biodiversity Mitigation and Enhancement Plan which demonstrates how the proposed development will be managed in perpetuity to enhance wildlife, together with a programme of implementation, shall be submitted to and approved in writing by the local planning authority. The development shall be implemented and maintained in accordance with the approved Plan and programme of implementation.
- 8) Demolition or construction works shall not take place outside 08:00 hours to 18:00 hours Mondays to Fridays and 09:00 hours to 13:00 hours on Saturdays nor at any time on Sundays or Bank Holidays.
- 9) No development shall take place until a Construction Environmental Management Plan (CEMP) has been submitted to, and approved in writing by, the Local Planning Authority. The approved CEMP shall be adhered to throughout the construction period. The CEMP shall provide for:
 - i) Timing and management of arrivals and departures of vehicles and site traffic;
 - ii) measures to control the emission of dust, dirt and noise during construction;
 - iii) the phasing and timing of work;

- iv) the parking of vehicles of site operatives and visitors;
 - v) wheel washing facilities
 - vi) a procedure for handling and investigating complaints.
- 10) If during any works contamination is encountered which has not previously been identified then the additional contamination shall be fully assessed and an appropriate remediation scheme agreed with the local planning authority. Any remediation details shall be implemented as approved.
- 11) Prior to the commencement of development a detailed scheme for traffic calming works to Church Hill, shall be submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details prior to the first occupation of the dwellings.
- 12) The dwellings shall achieve a minimum of Level 4 of the Code for Sustainable Homes and a level 5 if commenced on or after 1 January 2016. No dwelling shall be occupied until a final Code Certificate has been issued for it certifying that appropriate Code Level has been achieved.
- 13) The development shall not be carried out otherwise than in accordance with a surface water drainage scheme, which shall include details of the means of attenuation and disposal of surface water from the site, including through the use of sustainable drainage systems. Details of the scheme, a timetable for its implementation and details of its future management, shall be in general compliance with the principles within the Flood Risk Assessment dated June 2013, and shall be submitted to and approved in writing by the LPA prior to the commencement of development. The scheme shall be implemented in accordance with the approved details and timetable for implementation.