

EXETER LOCAL PLAN 2021-2041

INDEPENDENT EXAMINATION

MATTER 11, ISSUE 1

**LANDSCAPE SETTING AREAS AND VALLEY PARKS – POLICIES NE1 AND
NE2**

HEARING STATEMENT

ON BEHALF OF

SALTER PROPERTY INVESTMENTS





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1. Introduction

- 1.1 This Position Statement sets out a brief response on behalf of Salter Property Investments (SPI) to the Inspectors' questions in relation to Matter 11, Issue 1
- 1.2 This Hearing Statement should be read in conjunction with the written representations made on behalf of SPI to the Regulation 19 Plan.

2. Q1

What are the Landscape Setting Areas and Valley Parks – Policies NE1 and NE2

- 2.1 The Landscape Setting Areas (LSAs) are blanket restraint designations that, construed on their face, impose a negative presumption against development unless it can be demonstrated that there would be, *inter alia*, ‘no harm’ to their ‘undeveloped character’. By implication, they therefore exert a blanket restraint on development since, by definition, ‘any’ development is likely to occasion change to the ‘undeveloped’ character of the designations.
- 2.2 Whilst Policy NE1 identifies some exceptions where development is deemed to be reasonably necessary, those exceptions are limited and relate essentially to rural-related land uses. It is significant that the exceptions are more limited than those that are permitted by Green Belt policies, even more so since the introduction of the concept of ‘grey belt’ through the 2024 revisions to the NPPF. That necessitates that the policy is subject to the most careful and rigorous scrutiny to ensure that it does not preclude essential development in the most sustainable locations.
- 2.3 Given that the LSAs embrace large swathes of land adjacent to the city’s existing urban boundary around the north, west and south of the city, on their face they impose a moratorium on development in the most sustainable locations.
- 2.4 The LSAs remain part of the adopted Development Plan framework by dint of Policy LS1 of the Exeter Local Plan First Review 2011. They pre-date the adopted Core Strategy and were therefore designated prior to the growth requirements set through the latter. At the time that the Core Strategy was adopted, the Council was unable to demonstrate a five year supply of deliverable housing land, which they were required by the Examination Inspector to rectify within two years, failing which an early review of the Plan was necessary. Provisions to that effect were incorporated in the Core Strategy¹. To rectify that deficit, and as now confirmed through a succession of Appeal decisions, it is clear that development within the LSAs would be necessary. The shortfall in the five year supply of deliverable housing land was not rectified within two years, nor was a plan review initiated following that period, as

¹ Exeter Core Strategy, para. 1.7

required, and the deficit has prevailed ever since. Moreover, the Development Delivery DPD, through which the LSAs are likely to have been reviewed and non-strategic housing allocations made, failed to progress to adoption.

- 2.5 The blanket restraint imposed by the LSAs must be construed as a contributory factor to the housing land supply shortfall, and the consequent under-provision of housing which is now reflected in the escalated local need identified through the revised standard method. As such, they must now be subject to the closest of scrutiny to ensure that they do not preclude local needs from being met, and in the most sustainable locations associated with the existing urban area.
- 2.6 A succession of Appeal decisions relating to sites in the LSAs have confirmed that the policy is out-of-date and inconsistent with national policy following the introduction of the NPPF. This was confirmed through an Appeal decision relating to Land at Home Farm, Pinhoe, in which Inspector Coffey held as follows:

*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.***²

- 2.7 In a later Appeal relating to land west of Clyst Road, Topsham the Inspector noted that, although the proposals would not satisfy the specific requirements of Policy LS1, and as such would conflict with that policy:

² Appeal ref. APP/Y1110/A/14/2215771, DL, 29 October 2014, para. 13, emphasis added

*... it was common ground that the policy is out of date in the light of the National Planning Policy Framework (the Framework), as well as being based upon outdated information and **superseded national policy**. I agree with this assessment and, as such, I afford this policy conflict limited weight.³*

2.8 The Inspector also recorded the Council's concession in that case that:

*... to meet the CS housing requirement and to achieve a five year housing land supply, **permissions would need to be granted on land that is subject to policies LS1 and CP16**. I have no reason to doubt that assessment.⁴*

2.9 In a more recent Appeal decision relating to land at Pennsylvania Road, Exeter, the Inspector endorsed the position as regards Policy LS1:

*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 Inspector in the appeal at Land to the west of Clyst Road, Topsham and, in view of this decision, not disputed by the Council.⁵*

2.10 Whilst relating to a protection policy for strategic gaps rather than landscape character, the findings of Inspector Burden following her Examination of the North Somerset Site Allocations Plan are germane in terms of policies that seek to impose blanket restraints across broad areas:

There is no reference to strategic gaps in the NPPF or in PPG which would provide any national policy basis or advice on their designation or the detailed definition of their boundaries. ...⁶

³ Appeal ref. APP/Y1110/W/18/3202635, para. 7, emphasis added

⁴ Ibid para. 43, emphasis added

⁵ Appeal ref. APP/Y1110/W/20/3265253, para. 22, emphasis added

⁶ North Somerset Council Sites and Policies Plan Part 2: Site Allocations Plan, Inspector's Report, February 2018, para. 99

There is no national policy for the provision of strategic gaps, or encouragement in Government policy to have such designations. In these circumstances the emerging JSP and new Local Plan would provide the opportunity for the Council to reconsider the principle of continuing with this designation. ...⁷

2.11 The strategic gap designations were, similarly, drawn tightly around existing urban areas, and a potential barrier to achieving sustainable development by precluding reasonable alternatives in the most sustainable locations. The principle confirmed by Inspector Burden is that blanket restraint policies of this nature have no locus in the NPPF, and therefore should be reconsidered.

2.12 For all of the foregoing reasons it is considered that Policy NE1 is not:

- Positively prepared: it remains tightly drawn around the existing urban area and seeks to impose a blanket restraint on development which is more onerous than Green Belt policy.
- Justified: they preclude consideration of the allocation of peripheral sites suitable for family housing in particular, which is a key element of housing need in the city.
- Effective: as has been clearly established through the cited Appeal decisions, meeting housing needs in the most sustainable locations necessitates land-take from the LSAs, and therefore it will not be effective in restraining development over the plan period or consistent with delivering the needs for growth.
- Consistent with national policy: for the reasons outlined, national policy has moved away from blanket restraint designations to criteria-based policies, and therefore there is no locus for the LSAs in current national policy and which are inconsistent with it.

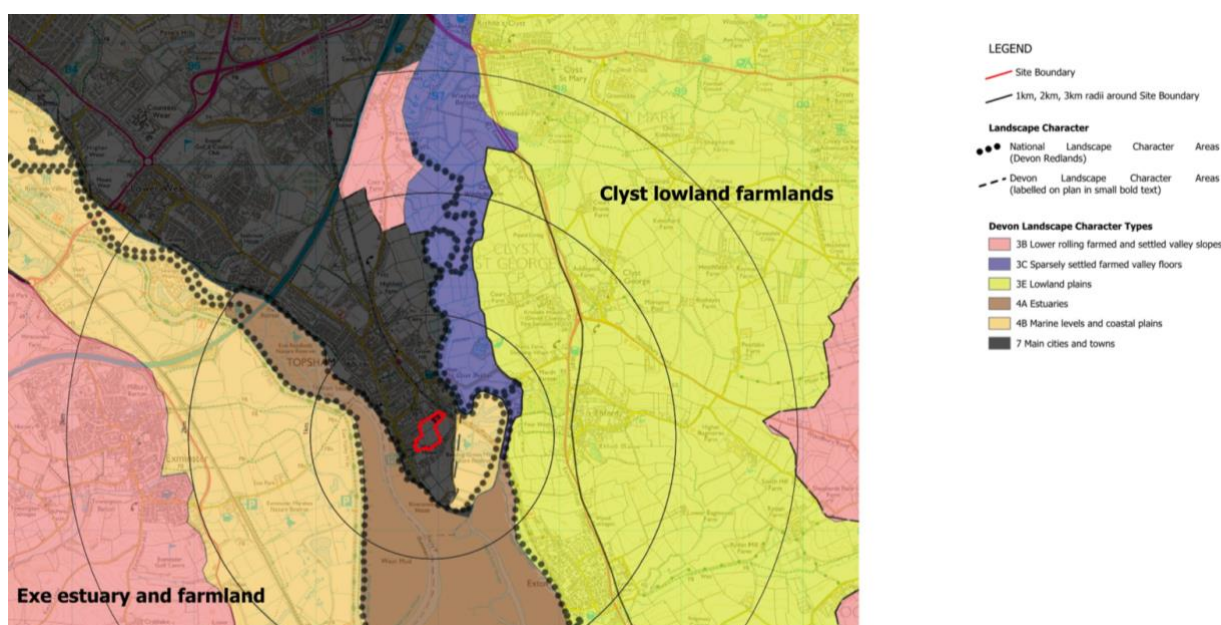
2.13 The LSA designations should therefore be discontinued and removed from the Policies Map.

2.14 Notwithstanding, and without prejudice to, the foregoing, if it is concluded that the designations should be continued, then they should be critically reviewed to reduce their extent so as not

⁷ Ibid, para. 101

to preclude necessary growth in the most sustainable locations. In particular, for the reasons set out their Regulation 19 representations, SPI consider that the continued inclusion of land at Topsham, to the south of Monmouth Street, west of Bowling Green Road and south of Mount Howe, which is effectively part of the urban area rather than landscape setting, is not justified.

- 2.15 SPI's assessment in this respect is endorsed by the Devon Landscape Character Assessment in which the site is assessed to be within the 'main cities and towns' character area (see copy extract below from the interactive map).



- 2.16 This confirms that the site is within an area that is urban in character, and therefore for which an assessment of its landscape attributes has not been undertaken. It is therefore counter-intuitive for the site to continue to be included within the LSA, and it should be removed from the designation.
- 2.17 The Landscape and Visual Impact Assessment commissioned by SPI to accompany a planning application confirms that the site is construed as part of the urban area of Topsham and can be developed without unacceptable landscape or visual harm. A copy of the LVIA is included at Annex 1 for information. This provides further endorsement that, when subject to fine-grained analysis, there are locations that are well related to the existing urban area of



Exeter that are currently subject to the blanket restraint of the Landscape Setting designations, that can accommodate growth without unacceptable landscape or visual impacts. This, in turn, provides further endorsement of the imperative to replace the current policy of blanket restraint with a criteria based policy that does not preclude unnecessarily the accommodation of growth in the most sustainable locations.

3. Q5

Are the requirements set out in policies NE1 and NE2 justified, effective, consistent with national planning policy and based on robust, up to date evidence? Have these requirements been adequately tested to ensure that they are viable and deliverable.

- 3.1 For the reasons set out in response to Q1 above, the requirements of Policy NE1 are not justified, effective or consistent with national policy, nor have they been subject to robust reassessment and balanced against future escalated housing needs.