



Appeal Decision

Inquiry held between 2 February and 5 February 2016

Site visit made on 5 February 2016

by Robert Parker BSc (Hons) Dip TP MRTPI

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

Decision date: 11 April 2016

Appeal Ref: APP/Y1138/W/15/3025120

Uffculme Road, Uffculme, Devon

- 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 Messrs Persey and Harding against the decision of Mid Devon District Council.
 - The application Ref 15/00108/MOUT, dated 24 January 2015, was refused by notice dated 23 April 2015.
 - The development proposed is outline application for up to 60 dwellings with access onto Uffculme Road, with all other matters reserved for future consideration.
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Decision

1. The appeal is allowed and planning permission is granted for outline application for up to 60 dwellings with access onto Uffculme Road, with all other matters reserved for future consideration at Land West of Harvesters, Uffculme Road, Uffculme, Devon in accordance with the terms of the application, Ref 15/00108/MOUT, dated 24 January 2015, subject to the conditions set out in the attached schedule.

Procedural Matters

2. The application was submitted in outline, with only the means of access to be determined at this stage. I have dealt with the appeal on that basis, treating the layout plan as illustrative.
3. The above site address is taken from the application form. However, a more precise description would be Land West of Harvesters, Uffculme Road, Uffculme, Devon. This is the address I have used in my formal decision.
4. A draft agreement under Section 106 of the Town and Country Planning Act 1990 (S106) was submitted in advance of the Inquiry and its terms were discussed during proceedings. An executed copy of the S106 was supplied after the event closed¹. The deed includes obligations relating to affordable housing, education contributions, a Travel Plan and the provision and maintenance of public open space and a sustainable urban drainage system (SUDS) within the appeal site.
5. Prior to the Inquiry the Council confirmed that it was retracting parts of its evidence relating to the walking distance/route to services in the village and the impact of the proposal on the rural character of the area. My decision takes account of this altered stance.

¹ S106 dated 18 February 2016

Main Issue

6. The main issue in this case is whether, having regard to the development plan, the National Planning Policy Framework, the housing land supply of the Council and the scale/location of the development, the appeal scheme would constitute a sustainable form of development.

Reasons

7. The appeal site is situated on the western fringes of Uffculme. It measures some 3.49 hectares and comprises an agricultural field together with part of the rear garden belonging to the property known as Harvesters. The field has a frontage onto Uffculme Road from which access would be taken. The southern boundary is demarcated by the River Culme, the flood plain for which extends across part of the site.

Development plan

8. The starting point for any assessment must be the development plan. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise.
9. The development plan in Mid Devon comprises three documents: Core Strategy 2026 (adopted 2007) (CS), Allocations and Infrastructure Development Plan Document (AIDPD) (adopted 2010) and the Local Plan Part 3: Development management policies (adopted 2013).
10. The appeal site is located outside of the settlement limits identified for Uffculme. It therefore lies in the countryside for the purposes of interpreting planning policy. Policy COR 18 of the CS states that development outside the settlements will be strictly controlled, enhancing the character, appearance and biodiversity of the countryside while promoting sustainable diversification of the rural economy. The proposal would not fall into any of the categories of development which the Policy finds to be permissible in the countryside.
11. Policy COR 17 of the CS identifies Uffculme as a settlement with some local facilities and employment and access to public transport. According to the policy, residential development will be limited to minor proposals within the defined settlement limits and to allocations for affordable housing meeting a local need.
12. It is common ground that the proposal would conflict with Policies COR 17 and COR 18. The parties further agree that those policies are relevant to the supply of housing. The case for the appellants is based on the premise that the policies are out-of-date and also that the local planning authority is unable to identify a five-year supply of deliverable housing sites. The Council contends that it is able to demonstrate the requisite supply and argues that the proposal should be rejected on the grounds that it conflicts with the CS and would, in any event, be unsustainable due to its location and scale.

The housing requirement

13. The CS and AIDPD were both adopted prior to publication of the National Planning Policy Framework (the Framework). Paragraph 215 of the latter states that due weight must be given to relevant policies in existing plans according to their degree of consistency with the Framework.

14. Paragraph 47 of the Framework makes clear that local planning authorities should use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs (FOAN) for market and affordable housing in the housing market area (HMA) as far as is consistent with the policies set out in the Framework.
15. A housing requirement for Mid Devon is set out in Policy COR 3 of the CS. This makes provision for approximately 6800 dwellings between 1st April 2006 and 31st March 2026. The policy states that delivery will be phased as follows: 390 dwellings per year over the period 2006–2016 and 290 dwellings per year between 2016 and 2026.
16. The Planning Practice Guidance² (PPG) advises that housing requirement figures in up-to-date adopted Local Plans should be used as the starting point for calculating five-year housing supply. It confirms that considerable weight should be given to the housing requirement figures in adopted Local Plans, which have successfully passed through the examination process, unless significant new evidence comes to light. However, the guidance warns that evidence which dates back several years, such as that drawn from revoked regional strategies, may not adequately reflect current needs.
17. It seems to me that this scenario is directly relevant here. Notwithstanding their existence as part of an adopted development plan, the housing requirement figures within Policy COR 3 are outdated. They have been formulated using a 20 year old evidence base and have been influenced by policy factors. As such, they do not equate to the FOAN in the HMA as required by the Framework. Neither can the figures be used as a proxy pending the outcome of the emerging Local Plan process. This has been made clear by the courts³.
18. In my opinion, Policy COR 3 is inconsistent with paragraph 47 of the Framework and its objective to boost significantly the supply of housing. I therefore attach limited weight to the policy.
19. The PPG⁴ advises that where evidence in Local Plans has become outdated and policies in emerging plans are not yet capable of carrying sufficient weight, information provided in the latest full assessment of housing needs should be considered. But the weight given to these assessments should take account of the fact they have not been tested or moderated against relevant constraints.
20. The Council is in the process of carrying out a Local Plan Review (LPR). This is proposing a housing delivery rate of 360 dwellings per annum over the period 2013-2033. However, the document has not yet been submitted for examination and there remain significant unresolved objections in relation to key housing issues. For this reason, the emerging plan carries very limited weight.
21. Part of the evidence base for the LPR includes a Strategic Housing Market Assessment⁵ (SHMA) which has been prepared for the Exeter HMA. This sets out figures for objectively assessed need, expressed as ranges, for the constituent local authorities over the period 2013-2033. For Mid Devon the housing need is estimated at between 359 and 381 dwellings per annum, with a mid-point of 370.

² Reference ID: 3-030-20140306

³ Hunston Properties Ltd v St Albans CDC and SoS CLG [2013] EWCA

⁴ Reference ID: 3-030-20140306

⁵ Final Report 2014/15

22. It was put to me that the latter figure “sense checks” the CS and validates its housing requirement. However, I am not persuaded by this argument. The figures have not been derived in the same manner and they serve different purposes. As such they are not directly comparable. It was not the objective of the SHMA to analyse the housing requirement between 2006 and 2013. Moreover, its mid-point figure is 80 dwellings per annum higher than that identified in Policy COR 3 for the period beyond 2016. This is a significant difference.
23. I note that the SHMA was accepted by the examining Inspector for the New East Devon Local Plan. However, it has not been formally tested in the Mid Devon context and therefore its figures must be treated with some caution. Nevertheless, it is more up-to-date than the development plan and in my judgement it is the best available evidence for the purposes of this appeal. For this reason I consider that it could be an appropriate basis for informing the FOAN from 2013 onwards.
24. At this point in time, it is feasible that the housing need for the next five year period may be in the region of 1850 dwellings to which must be added any shortfall and a buffer.

The shortfall

25. The Council considers that any shortfall in the delivery of dwellings since the beginning of the plan period should be calculated by comparing completions over that period against a housing requirement calculated using the annual average across the whole plan period – a figure of 340 dwellings per annum. It argues that this would be consistent with the AIDPD, the SHLAA⁶ Panel approach and its own monitoring practices.
26. The interpretation of policy is an objective issue and in my view the meaning of Policy COR 3 is clear. The policy is unequivocal in splitting housing provision over the plan period into two discrete phases with a different rate of delivery for each.
27. The local planning authority pursued the argument that there is conflict between Policy COR 3 of the CS and Policy AL/DE/1 of the AIDPD and that this should be resolved in favour of the latter policy, having regard to Section 38(5) of the Planning and Compulsory Purchase Act 2004⁷. However, it seems to me that Policy AL/DE/1 is serving an altogether different purpose to Policy COR 3. It is essentially a monitoring policy which defines trigger levels for action, by reference to dwelling completion numbers. The policy does not seek to redefine the housing requirement or alter the phasing of delivery. In my judgement therefore, there is no conflict between policies.
28. I accept that there are references to the 340 figure within Policy COR 12 of the CS and also within supporting text. However, these are expressed as annual averages and in my view they do not alter in any way the explicit phasing provision set out within Policy COR 3.
29. Having regard to my conclusions above, I consider that, for the purposes of calculating the shortfall, the housing requirement for the period 1st April 2006 to

⁶ Strategic Housing Land Availability Assessment

⁷ This states that if to any extent a policy contained in a development plan for an area conflicts with another policy in the development plan the conflict must be resolved in favour of the policy which is contained in the last document.

31st March 2015 should comprise seven years at 390 dwellings per annum, followed by two years at 370 dwellings per annum. This equates to 3470 units.

30. There is no dispute that completions over this period equate to 2942. The shortfall is therefore 528 dwellings. The parties are agreed that any shortfall should be spread across the next five year period using the Sedgefield method. I concur on the basis that this approach would be consistent with advice set out in the PPG and the objective of the Framework to boost significantly the supply of housing.

The buffer

31. The Framework states that local planning authorities should add a buffer of 5% to the land needed to meet the five year housing requirement. Where there has been a record of persistent under delivery of housing the buffer should be increased to 20% to provide a realistic prospect of achieving the planned supply. The buffer is not in addition to the housing requirement but rather moves it forward from later in the plan period to ensure choice and competition in the market for land.
32. The PPG advises that the approach to identifying whether there has been a persistent under delivery of housing involves questions of judgement. This is likely to be more robust if a longer term view is taken, since it is likely to take into account peaks and troughs of the housing market cycle.
33. The Council has supplied historic completion figures going back several decades. These can be compared against the development plan requirements which were prevailing at the time⁸. The evidence indicates that since 1995/96, completions have exceeded the relevant policy requirement on only five occasions.
34. The 20 year average of 356 units per annum further illustrates the extent to which the authority has failed to deliver the level of housing required to meet its development plan targets – figures which as I have already found are policy constrained and therefore a potential under-estimate of the actual housing need.
35. I accept that the recent dip in completions is a likely result of economic recession, and this reflects the position nationally. I also acknowledge the delays in bringing forward urban extensions for Tiverton and Cullompton and the pro-active approach to housing supply now being taken by the Council. However, I must make a judgement informed by past delivery rates.
36. For the above reasons I consider that a 20% buffer should be applied. The parties agree that the buffer should also be applied to any shortfall. This seems logical and I have no reason to adopt a different approach.

Supply contribution from sites

37. It is common ground that the five year land supply should be calculated using a base date of 1st April 2015. The written evidence on behalf of the local planning authority originally projected a five year delivery of 2198 dwellings. However, this figure was increased following a cabinet decision to release the

⁸ Devon Structure Plan First Review 1995-2011 – 450 dwellings per annum over the period 1995–2001
Devon Structure Plan 2001 to 2016: 'A Sustainable Strategy for Devon' – 390 dwellings per annum over the period 2001–2016.

Pedlars Pool contingency site⁹ and a number of other sites which are proposed for allocation in the emerging Local Plan. Together, these are projected to deliver 151 dwellings within the next five years.

38. During the Inquiry the Council provided a spreadsheet summarising the latest supply position. This took account of site specific information from agents/ developers for some sites. It also included a further batch of proposed allocations (estimated to deliver 110 units) from the emerging Local Plan. These would bring the overall supply figure to 2540 dwellings – as compared to the appellants' figure of 2032.
39. The respective land supply positions were explored by means of a round table discussion. The Council has adopted build-out rates taken from the SHLAA Methodology. The appellants raised no objections to this approach and I agree that they are a reasonable basis on which to make an assessment.
40. The largest individual sites in dispute are the urban extensions for Tiverton East and North West Cullompton. The Council considers that these sites can deliver 399 dwellings within the five year period, whereas the appellants predict 300.
41. Starting with East Tiverton, an outline planning permission exists for 330 dwellings and I was told that adoption of a Design Guide for this area is imminent. Another part of the site has a committee resolution to grant permission for 700 dwellings subject to the completion of a Section 106 agreement. A signed agreement was expected before the end of March 2016.
42. That said, there is some evidence to suggest that the developer for the 330 unit scheme is yet to acquire the site, notwithstanding the agreement in principle for Mid Devon District Council to buy the affordable element. There is a need to obtain reserved matters approval and discharge conditions on the outline permission. Significantly, this includes a condition regarding design principles, which could impact on the timescale for submission of reserved matters. The 700 dwelling scheme will have similar issues. Accordingly, there is doubt in my mind over the ability of this site to begin delivering as early as predicted. In my judgement, the trajectory for this site should be pushed back by 12 months.
43. The North West Cullompton site is further behind. The Master Plan is due for adoption shortly and the first planning applications are expected in the spring, with delivery projected towards the end of the 2017/18 monitoring year. I heard that two of the three parcels of land have been put forward by promoters and therefore commencement of development will be dependent upon disposal of those sites to a developer. This could affect delivery timescales. However, the Council has adopted a suitably cautious approach in relation to the number of units within the five year supply and on balance I am inclined to accept the trajectory put forward.
44. One of the key differences between the parties is in relation to the inclusion of sites which are proposed for allocation in the emerging Local Plan. The Council's view is that these sites should be included on the basis of the lack of objection. The appellants, on the other hand, contend that there is no certainty regarding delivery and therefore the sites should not count towards the supply figure.

⁹ Identified for potential release within Policy AL/DE/1 of the AIDPD.

45. I was told that there have already been pre-application discussions regarding several of the sites¹⁰. However, this is no certainty of planning permission being granted, particularly in view of the viability issues identified in respect of at least two of the schemes. These sites (totalling 58 units) should be deducted from the supply.
46. As regards Barn Park, Crediton, no decision has yet been made by Devon County Council in respect of whether to apply for planning permission or dispose of the site to a developer. There is an in-built assumption here that the local authority will be keen to secure the capital receipts from land sale having put forward the site within the SHLAA. However, there can be no reasonable certainty that the site will deliver 20 dwellings within the five year period.
47. I understand that Court Orchard, Newton St Cyres has a resolution to grant planning permission for 25 units subject to completion of a Section 106 agreement. From what I heard, the legal agreement is well advanced and there is a reasonable likelihood that the development will go ahead. However, it will be dependent upon the construction of a new primary school and there is no compelling evidence to give me confidence that the projected completion date of spring/summer 2017 will be met. This leads me to question the timing of the housing element.
48. The remainder of sites identified (referred to at the Inquiry as the '110 sites') are predominantly 'greenfield'. The Council explained that they were the subject of a varying number of objections. In its view, these objections are unlikely to preclude the sites from coming forward and on this basis it considers that they should be included within the supply. Notwithstanding this, it has applied a discount to reflect the uncertainty involved. Only 110 out a total of 253 dwellings are being included within the figures for deliverable supply.
49. The appellants expressed significant concern regarding this approach and I concur. The absence of objection to individual site allocations does not prevent an examining Inspector from raising wider issues relating to, for example, the development strategy or site selection methodology. For this reason, these sites cannot be relied upon to deliver housing within the five year period.
50. A footnote to paragraph 47 of the Framework explains that to be considered deliverable, sites 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 and in particular that development of the site is viable. In my judgement it is questionable whether these criteria are met in relation to sites which lack planning permission and which also fail to comply with an adopted development plan. Therefore, these sites should be discounted from the supply figures.
51. The appellants have sought to challenge the Council's methodology in relation to windfall sites. However, it seems to me that the allowance made for such sites is reasonable, having regard to evidence of past trends. Whilst I acknowledge the concern that future windfalls may not come forward at the same rate, the assumptions included in the Council's figures are conservative. I am therefore content for the allowance of 158 dwellings to remain.

¹⁰ Old Abattoir, Coplestone; Hunters Hill, Culmstock; South of Broadlands, Thorverton; and Linhay Close, Culmstock

Conclusions on housing land supply

52. Based on the above, I consider that the Council's latest predicted five year housing supply figure is overstated. However, I have also found some of the appellants' views to be unduly pessimistic. To my mind a more realistic supply will lie somewhere in the middle. Taking a figure of around 2300 dwellings, which follows from my findings above, this would give rise to a deliverable supply of approximately 4 years. Even using the Council's preferred figure the supply would increase to only 4.5 years.
53. Using the housing figures set out in Policy COR 3 would yield a total five year requirement for 1550 units¹¹ and a backlog of 568. With the 20% buffer applied the overall requirement would be 2542 dwellings. Assuming a realistic supply figure of around 2300 units, the deliverable supply would be in the region of 4.5 years. Therefore even in this scenario the Council would fall short of the requisite five-years.
54. It therefore follows that, even if I revert to the development plan policy figures, a five-year supply of deliverable housing land cannot be demonstrated. This is clearly a snapshot of the current situation based upon the evidence presented for this particular appeal.

Considerations of scale/location

55. I have found that Policy COR 3 is inconsistent with paragraph 47 of the Framework on the basis that it fails to identify, and plan for, the FOAN. In addition, the Council cannot demonstrate a five-year supply of deliverable housing sites, either measured against the CS or the SHMA. Paragraph 49 of the Framework states that in such circumstances, relevant development plan policies for the supply of housing should not be considered up-to-date. Thus, Policies COR 3, COR 17 and COR 18 of the CS are all out-of-date. I therefore attach these policies, and the settlement limits upon which they rely, limited weight.
56. Consequently, paragraph 14 of the Framework is engaged. This states that where the development plan is absent, silent or relevant policies are out-of-date, 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; or specific policies in the Framework indicate development should be restricted.
57. At the heart of the Framework is the presumption in favour of sustainable development. There are three dimensions to this: economic, social and environmental. The roles are mutually dependent and should be jointly sought to achieve sustainable development.
58. The proposal is for development on a greenfield site at the edge of the village. This in itself is not necessarily harmful. The District is reliant upon such sites to meet its housing needs and there must be an acceptance that this will result in the loss of some agricultural land on the fringes of settlements. In this instance, the Council has not raised any substantive concerns in relation to countryside encroachment or the effect of the proposed development on the character and appearance of the area. Moreover, it has not identified any

¹¹ Comprising one year at 390 dwellings and four years at 290 dwellings.

- environmental harm that cannot be mitigated by planning condition. Based on the information before me and my observations during the site visit I have no reason to take a different view.
59. The Council's principal concern is in relation to the scale of the development. It considers the number of dwellings being proposed to be excessive and contrary to its overarching strategy, and that of the Framework, to direct development to the most sustainable locations.
60. Uffculme has a wide range of facilities, including two shops (one of which contains a Post Office), a pair of public houses, hot food takeaway, doctor's surgery, community hall and playing fields, pre-school and primary school. Comparatively speaking, it is better served than the other villages listed in Policy COR 17 and is the only one to have its own secondary school and dedicated library¹².
61. In my view, the appeal site is within an acceptable and safe walking distance of those services and facilities. There are some employment opportunities within the village itself and a number of business parks¹³ within a short cycle or drive. Two of those business parks are in the process of expanding.
62. It would be unrealistic to expect the village to achieve self-containment. Nevertheless, in relative terms and in a rural context, this is a sustainable location for development. Residents may choose to travel further afield for leisure, shopping or commuting purposes. However, there are opportunities to use sustainable transport modes and villagers have a real choice about how they travel. There are bus services to Tiverton, Cullompton, Taunton and Exeter and the timings of these would be suitable for the daily journey to work. Moreover, the Langlands and Mid Devon Business Parks are both on bus routes. To encourage public transport use, the development would provide new bus stops immediately outside the appeal site.
63. Tiverton Parkway station provides access to the mainline rail service and this is within cycling range along a recognised cycle route. A proportion of residents will almost certainly prefer to drive, but even in that scenario the journey would be reasonably short. I noted that Uffculme is closer to Tiverton Parkway station than Tiverton itself so comparatively it is no less sustainable insofar as distance to the rail network is concerned.
64. The appellants did not seek to argue that the development would be 'minor' in the context of Policy COR 17. Self evidently, it would be of a more significant scale. Nevertheless, in my view the proposal would not be disproportionate to the size of Uffculme. The village contains an estimated 1043 households and a scheme of 60 dwellings would represent a relatively modest 6% increase on top of this.
65. Paragraph 55 of the Framework states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. The PPG¹⁴ advises that a thriving rural community in a living, working countryside depends, in part, on retaining local services and community facilities. Rural housing is essential to ensure viable use of these local facilities.

¹² Other settlements listed within Policy COR 17 have a mobile library service

¹³ Langlands Business Park, Hitchcocks Business Park and Mid Devon Business Park

¹⁴ Reference ID: 50-001-20140306

66. Having regard to the above, I am not persuaded that the proposal would be inherently unsustainable, either by virtue of its scale or location. It would bring social benefits in terms of delivering much needed housing against a background of historic undersupply and an absence of a five-year supply of deliverable sites. This carries considerable weight in the overall planning balance.
67. The proposal would also deliver up to 21 affordable dwellings which equates to 35% of the total number of units. Given the level of need for affordable housing in the District, this would constitute another significant social benefit of granting planning permission. I give weight to the fact that policy requirements alone will not be sufficient to meet the identified level of need¹⁵.
68. The Framework places great emphasis on the need for economic growth. The proposal would create or sustain employment during the construction phase and there would be further benefits through increased spending in local business arising from additional residents in the village.
69. Drawing matters together on this issue, neither the scale nor location of the development would render the scheme unacceptable. The proposal would bring forward a number of social and economic benefits with no demonstrable environmental harm.

Other Matters

70. I am referred to the fact that the site has been 'rejected' for development as part of the LPR. However, for the reasons explained above, the emerging plan can be attached very limited weight at this stage.
71. Local residents have raised concerns regarding highway safety and the impact of traffic generated by the development. However, in my view the scheme would not generate a significant level of additional traffic in comparison with the status quo. The new access would provide satisfactory visibility and the 30mph limit would be extended across the site frontage.
72. I am told that there has been at least one fatality on this section of road. I do not know the causal factors leading to this incident. Nevertheless, there is no compelling evidence before me to clearly demonstrate that the scheme would result in highway safety issues or congestion from increased traffic volumes. Accordingly, I have no reason to disagree with the assessment of the Highway Authority that the proposal would be acceptable.
73. Concerns have also been raised about flooding. The southern part of the site lies within the floodplain for the River Culm. However, the illustrative layout plan demonstrates that development can be confined to Flood Zone 1 (Low Risk). The Environment Agency does not object to the development and nothing in the evidence before me persuades me to take a different view.
74. There is no firm evidence to support the assertion that the doctor's surgery would be unable to cope with the extra population. The Education Authority has confirmed that the primary school has capacity and the development would make a financial contribution to mitigate its effect upon the secondary school. As such, there are no grounds to dismiss the appeal for reasons relating to the impact upon local facilities.

¹⁵ Paragraph 11.1.14, SHMA

75. At the Inquiry I heard from one local resident who had a particular concern about the loss of agricultural land. This is a factor to which I have had regard, but it is not one which I can give great weight in this instance. The Council did not seek to argue that the proposal would compromise the best and most versatile agricultural land and, as I have already mentioned, the District is reliant upon the release of 'greenfield' sites in order to meet its need for housing. The delivery of new homes is a key policy objective and this would outweigh any limited harm arising from the development of farmland in this case.
76. Whilst I have no doubt that adjacent residents will experience some disturbance during the construction phase, the effects would be temporary and there is no reason to believe that they would be particularly severe in this case. Effects can be mitigated by imposing a condition to require the submission of a Construction Management Plan. There is no substantive evidence to suggest that neighbours would experience unacceptable levels of noise once the dwellings are occupied. The layout of the scheme would be a reserved matter in any event.
77. I can see no reason why foul drainage to the mains sewer would cause contamination or pollution. South West Water has raised no objection to the proposal and a condition can be used to ensure that no dwelling is occupied until it has been demonstrated that there is sufficient capacity in the public foul sewage network.
78. No substantive evidence has been put forward to support the concerns regarding the effect on wildlife. Surveys have identified the presence of bats but activity levels were low and the proposal would retain existing linear hedgebank features and in-field trees. Furthermore, the watercourse and pond corridor would provide a buffer to the development and planting would present the opportunity for ecological enhancement. Landscaping would be addressed at the reserved matters stage.
79. I am aware that land within the curtilage of Harvesters has been the subject of a previous appeal in relation to a proposal for two dwellings. The Inspector in that case commented that woodland provides an important and attractive natural feature defining the end of the village and functioning as an appropriate settlement boundary. Whilst I have no reason to disagree with that observation, it was made in a different context. In the current appeal, the Council is not contending that there would be material harm to the character or appearance of the area and I agree.
80. Concerns are raised regarding the linear 'ribbon' nature of development and the erosion of the rural setting between the villages of Uffculme and Willand. However, the development would not materially close the gap between the settlements and they would each retain their individual identity.
81. My attention is drawn to other refusals of planning permission locally. However, I have not been provided with details of those cases and therefore I cannot determine whether there are any parallels with the appeal proposal. I have therefore determined the case on its own merits.

Planning Obligations

82. The affordable housing obligations respond to identified needs within the District and are supported by Policy AL/DE/3 of the AIDPD which applies a target of 35% affordable housing on relevant sites. The scheme would make

this level of provision and as such it would be policy compliant. The S106 gives the Council control over the size and tenure mix to ensure that the affordable housing meets local needs.

83. The education contributions are also justified given the fact that Uffculme School is over capacity. The monies would be used to provide secondary school facilities required as a result of the development. This would accord with Policy AL/IN/5 of the AIDPD and the methodology contained within the Devon County Council publication 'Education Section 106 Infrastructure Approach' (2013). The Council has confirmed that the contribution would be compliant with the pooling restrictions introduced under Regulation 123(3) of the Community Infrastructure Levy Regulations 2010.
84. The requirement for an on-site open space scheme responds to Policy AL/IN/3 of the AIDPD which requires new housing development to provide at least 60 square metres of equipped and landscaped public open space per market dwelling or an off-site contribution. I concur with the Council's assessment that on-site provision would be preferable in this instance.
85. There is also a planning obligation to secure the ongoing management and maintenance of the public open space. This would extend to the SUDS. In my view, such provisions are justified and would ensure that the areas remain fit for purpose.
86. In addition, the S106 would require the implementation, monitoring and review of a Travel Plan to be first agreed with the County Council. This would accord with the sustainability objectives of the Framework and as such it is a benefit which I have weighed in the balance.
87. Overall, the obligations within the S106 are necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. Therefore, they meet the tests within CIL Regulation 122. I have taken them into account in the decision. I consider that the conditionality provisions set out in Paragraph 2.5 of the agreement are satisfied and that the obligations should become effective.

Conditions

88. Suggested planning conditions were set out in the statement of common ground. However, the Council included a separate list within its statement of case. The conditions were discussed in a round table session and amendments were subsequently agreed between the parties. I have considered the revised list having regard to paragraphs 203 and 206 of the Framework and advice contained in the PPG. Where necessary I have adjusted the wording to improve precision and enforceability.
89. Given the outline nature of the application, conditions are necessary relating to commencement and the submission of the reserved matters. This will comply with the requirements of planning legislation¹⁶. Conditions are also needed to control the maximum number of dwellings and to specify the plans to which the permission shall relate. This will provide certainty and ensure that the new access onto Uffculme Road is constructed in accordance with the approved details.

¹⁶ Section 92 of the Town and Country Planning Act 1990, as amended

90. The Council has requested a condition requiring details of materials, boundary treatments, finished floor levels, existing and proposed site levels and proposed road and footpath levels to be included within the reserved matters. I agree that such a condition would be reasonable to ensure that the development has a satisfactory appearance and to address flood risk.
91. In the interests of highway and pedestrian safety, a condition is necessary to ensure that the vehicular access and the footway linking the site to the village are constructed prior to any other part of the development going ahead. The same condition would secure the provision of a site compound and car park, to discourage parking on the public highway during the construction phase.
92. I agree that a condition should be used to require the submission of a Construction Management Plan. This will ensure that the development is carried out responsibly and with minimal disruption to local residents.
93. A condition is also needed to ensure the provision of the new bus stops on Uffculme Road, in the interests of ensuring that occupiers have a choice of transport mode. For reasons of highway safety, the same condition would require that the internal roads, parking areas and footways within the site are provided prior to occupation of the dwellings. To make sure that they are adequate in functional terms, are safe and have a satisfactory appearance, detailed drawings of the highway infrastructure are required before construction begins.
94. The site lies within an area known to contain evidence of prehistoric activity and therefore I have attached a condition to secure a scheme of archaeological work with the aim of recording of any features of heritage interest.
95. A condition is also necessary to require the submission of an arboricultural method statement and tree protection plan. This will ensure the retention of existing trees in the interests of public amenity and the character and appearance of the area.
96. A condition is necessary to ensure that the site is properly drained. To this end, I agree that a surface water drainage scheme is required for the Council's approval and that this should be based on SUDS principles. Foul drainage is proposed to the mains sewer. However, a condition is required to ensure that dwellings are not occupied until sufficient capacity exists within the public sewerage network.
97. A phasing condition is included within the Council's list of suggested conditions. However, this was not pursued at the Inquiry and I do not consider that such a condition can be justified in this instance, having regard to the scale of the scheme. Likewise, a condition to require a management plan for areas within the site is unnecessary as this objective is secured via the S106.

Conclusion

98. To conclude, the proposal would be in conflict with Policies COR 17 and COR 18 of the CS. However, the development plan is inconsistent with the policies of the Framework by reason of its failure to properly identify, and plan for, the full objectively assessed need for housing in the District. Moreover, the Council has been unable to demonstrate a five-year supply of deliverable housing sites. In such circumstances, paragraph 49 of the Framework deems that relevant policies for the supply of housing should not be considered up-to-date. I have

therefore attached limited weight to the policies upon which the Council has sought to rely in refusing planning permission.

99. The proposal would bring important social benefits in terms of delivering market and affordable housing and it would also promote economic activity. I attach considerable weight to these matters, in light of the Council's current housing land supply position and the need for economic growth. No environmental harm has been identified which is not capable of being mitigated through the use of planning conditions and the submitted S106.
100. Accordingly, it is my view that there are no adverse impacts that would significantly and demonstrably outweigh the benefits of the development when assessed against the policies in the Framework taken as a whole. There are no specific Framework policies indicating that development should be restricted. I therefore consider that the proposed development should be regarded as sustainable. This is a significant material consideration sufficient to outweigh the development plan conflict.
101. For the above reasons, and having had regard to all other matters before me, including the various court judgments which were drawn to my attention during the Inquiry, I conclude that the appeal should be allowed and that outline planning permission should be granted.

Robert Parker

INSPECTOR

Attached – Schedule of Conditions

Richborough Estates

APPEARANCES

FOR THE APPELLANT:

Mr Giles Cannock MA LLM (Cantab) of Counsel Instructed by Neal Jillings

He called

Mr Neal Jillings BSc (Hons) MA MRTPI Jillings Heynes Planning Ltd

FOR THE LOCAL PLANNING AUTHORITY:

Mr Gary Grant of Counsel Instructed by Simon Johnson,
Solicitor with the Council

He called

Mr Dean Titchener BSc (Hons) MSc Principal Forward Planning Officer

Ms Tina Maryan BSc (Hons) MA T&CP MRTPI Area Planning Officer

INTERESTED PERSONS:

Mr A Samuels Local resident

Councillor R Evans Ward Member

Richborough Estates

DOCUMENTS SUBMITTED AT THE INQUIRY

1. Opening remarks on behalf of the LPA
2. Opening submission of the appellant
3. Adopted Mid Devon Core Strategy 2026 (2007)
4. Adopted Allocations and Infrastructure Development Plan Document (2010)
5. Local Plan Review Options Consultation (January 2014)
6. Local Plan Review Options Consultation (extract: pages 94-96)
7. Local Plan Review 2013-2033 – Proposed Submission (February 2015)
8. Policy H1 of the Devon Structure Plan First Review 1995-2011
9. Policy DM9 of Local Plan Part 3: Development management policies (2013)
10. Ivan Crane v Secretary of State for Communities and Local Government, *Harborough District Council* [2015] EWHC 425 (Admin)
11. Extract from Planning Practice Guidance (Reference ID: 50-001-20140306)
12. Extract from Planning Practice Guidance (Reference ID: 2a-019-20140306)
13. Exeter Housing Market Area SHLAA Methodology (Adopted September 2013) (extract: pages 6-8)
14. Exeter Housing Market Area Strategic Housing Market Assessment 2014 (extract: pages 85-108)
15. Housing Supply Schedule (referenced at Inquiry as Document ID1)
16. Email from Dean Titchener dated 27 January 2016 (@ 16:41) re. updated supply information – with spreadsheet attachment
17. Email from Dean Titchener dated 28 January 2016 (@ 09:25) re. updated supply information
18. Email from Dean Titchener dated 28 January 2016 (@ 17:15) re. updated supply information – with sites evidence attachment
19. Email from Katie Furner dated 6 January 2016 (@ 16:33) regarding Housing Need figures on Devon Home Choice for Uffculme
20. Five year land supply calculation (340 requirement to 2013, 370 thereafter)
21. Definition of 'Designated Persons' in the context of affordable housing
22. Consultation response from Education Authority dated 3 February 2015
23. List of suggested conditions (taken from Council's Statement of Case)
24. Closing on behalf of the LPA
25. Closing submissions of the appellant

SCHEDULE OF CONDITIONS

- 1) The site hereby approved for development shall be as shown on the submitted location plan (1913. SK01. Rev. A) and site access arrangements plan (0172. PHL/002 Rev. A).
- 2) The development hereby permitted shall be limited to a maximum of 60 dwellings.
- 3) Details of the appearance, landscaping, layout and scale (herein after 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.
- 4) The detailed drawings required to be submitted by condition 3 shall include the following additional information: boundary treatments, existing and proposed site levels, proposed road and footpath levels, finished floor levels, materials and sustainable urban drainage system.
- 5) Application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission and the development shall begin no later than 3 years from the date of this permission or not later than 2 years from the approval of the last "reserved matters" to be approved.
- 6) No development shall commence on site until a surface water drainage scheme based upon sustainable urban drainage principles (including a full drainage masterplan and associated drainage calculations) has been submitted to and approved in writing by the local planning authority. The scheme shall be fully implemented and subsequently maintained, in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may be agreed in writing by the local planning authority.
- 7) No development shall commence on site, other than in relation to a, b, c & d of this condition, until:
 - a) the access road has been laid out, kerbed, drained and constructed up to base course level for the first 20 metres back from its junction with the public highway;
 - b) the ironwork has been set to base course level and the visibility splays required by this permission laid out;
 - c) the footway on the public highway frontage linking the estate to the existing footway network to the east of the site has been constructed up to base course level; and
 - d) a site compound and car park have been constructed in accordance with details to be first submitted to and approved in writing by the local planning authority.
- 8) No development shall commence on site until a Construction Management Plan has been submitted to and approved in writing by the local planning authority. The plan shall include, but shall not necessarily be limited to, details of the following:
 - a) parking for vehicles of site personnel, operatives and visitors;

- b) loading and unloading of plant and materials;
- c) storage of plant and materials;
- d) programme of works (including working hours and measures for traffic management);
- e) provision of any hoarding or temporary fencing; and
- f) measures to control construction noise, the emission of dust and the deposit of materials on the public highway.

The development shall be carried out strictly in accordance with the approved Construction Management Plan.

- 9) No development shall commence on site until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority. The development shall be carried out in strict accordance with the approved details.
- 10) No development shall commence on site until an Arboricultural Method Statement and Tree Protection Plan, based on the submitted Tree Constraints Appraisal dated 7 October 2014 Devon Tree Services, has been submitted to and approved in writing by the local planning authority. The development shall be carried out in strict accordance with the approved details.
- 11) No development shall commence on site until details of the following pieces of highway infrastructure have been submitted to and approved in writing by the local planning authority: the estate road, cycleways, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, services routes, surface water outfall, road maintenance/vehicle overhang margins, embankments, visibility splays, accesses, car parking and street furniture. The information submitted pursuant to this condition shall include scale plans and sections indicating, as appropriate, the design, layout, levels, gradients, materials and method of construction. The development shall be carried out in strict accordance with the approved details.
- 12) No dwelling shall be occupied until there has been submitted to and approved in writing by the local planning authority evidence to demonstrate that sufficient capacity exists in the public foul sewerage network to accommodate the foul sewerage discharge from the development.
- 13) No dwelling shall be occupied until the following works have been carried out to the written satisfaction of the local planning authority:
 - a) The spine road and cul-de-sac carriageway including the vehicle turning head within that phase shall have been laid out, kerbed, drained and constructed up to and including base course level, the ironwork set to base course level and the sewers, manholes and service crossings completed;
 - b) The spine road and cul-de-sac footways and footpaths which provide that dwelling with direct pedestrian routes to an existing highway maintainable at public expense have been constructed up to and including base course level;

- c) The cul-de-sac visibility splays have been laid out to their final level;
- d) The street lighting for the spine road and cul-de-sac and footpaths has been erected and is operational;
- e) The car parking and any other vehicular access facility required for the dwelling has/have been completed;
- f) The verge and service margin and vehicle crossing on the road frontage of the dwelling have been completed with the highway boundary properly defined;
- g) The street nameplates for the spine road and cul-de-sac have been provided and erected;
- h) The footway on the public highway frontage linking the estate to the existing footway network to the east of the site has been completed; and
- i) The bus stops and the pedestrian links to the bus stops shown on the site access arrangements plan (0172. PHL/002 Rev. A) have been provided.

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