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# Appeal Decision

Inquiry opened on 16 April 2013

Site visit made on 28 May 2013

**by David Wildsmith BSc(Hons) MSc CEng MICE FCIHT MRTPI**

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

**Decision date: 2 July 2013**

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**Appeal A - Ref: APP/X1118/A/12/2188898**

**Appeal B - Ref: APP/X1118/E/13/2193734**

**Former Fremington Army Camp, land north of Church Hill, Fremington, Devon**

- **Appeal A** is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Fremington Developments LLP against the decision of North Devon District Council.
  - The application Ref 53147, dated 12 April 2012, was refused by notice dated 6 December 2012.
  - The development proposed is a residential development of 277 dwellings with associated public open space, affordable housing, recreational facilities, landscaping and access following the demolition of existing buildings; and the refurbishment of 2 former military buildings (Building 60 & the Miniature Range Building) for community use.
  - **Appeal B** is made under sections 20 and 74 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a failure to give notice within the prescribed period of a decision on an application for conservation area consent.
  - The appeal is made by Fremington Developments LLP against North Devon District Council.
  - The application Ref 53147 is dated 12 April 2012.
  - The demolition proposed is of all former military buildings at Fremington Army Camp, with the exception of Building 60 and the Miniature Range Building.
  - The inquiry sat for 6 days on 21 to 24 April and 29 to 30 May 2013.
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## Decisions

1. **Appeal A** is allowed and planning permission is granted for a residential development of 277 dwellings with associated public open space, affordable housing, recreational facilities, landscaping and access following the demolition of existing buildings; and the refurbishment of 2 former military buildings (Building 60 & the Miniature Range Building) for community use at Fremington Army Camp, land north of Church Hill, Fremington, Devon in accordance with the terms of the application, Ref 53147, dated 12 April 2012, subject to the conditions set out in the schedule at the end of this decision.
2. **Appeal B** is allowed and conservation area consent is granted for the demolition of all former military buildings at Fremington Army Camp, with the exception of Building 60 and the Miniature Range Building at Fremington Army Camp, land north of Church Hill, Fremington, Devon in accordance with the terms of the application Ref 53147, dated 12 April 2012, subject to the condition set out in the schedule at the end of this decision.

### **Application for costs**

3. At the Inquiry an application for costs was made by Fremington Developments LLP against North Devon District Council ("the Council"). This application is the subject of a separate Decision.

### **Preliminary matters of clarification**

4. These appeals were originally lodged against non-determination of the planning application and the application for conservation area consent. However, the submitted Statement of Common Ground ("SoCG") explains that the Council subsequently issued a decision on the planning application which identifies 2 reasons for refusal. It was therefore agreed at the inquiry that Appeal A would proceed on the basis of this refusal, but as this did not cover the application for conservation area consent it was agreed that Appeal B should continue on the basis of non-determination.

### **Main issues**

5. The main issues in **Appeal A** are firstly, whether the proposed development would provide safe and suitable access arrangements for all users; secondly, the effect of the proposed access arrangements on the living conditions of occupiers of properties in the vicinity of the Military Road/Church Hill junction, with particular reference to privacy; thirdly, whether the proposed development would preserve or enhance the character or appearance of the Fremington Conservation Area and the setting of nearby listed buildings; and finally, how the planning balance, involving the benefits and disbenefits of the proposed development, should be assessed.
6. The main issue in **Appeal B** is the effect that demolishing all former military buildings at Fremington Army Camp, with the exception of Building 60 and the Miniature Range Building, would have on the character and appearance of the Fremington Conservation Area and the setting of nearby listed buildings.

### **Description of the site and surrounding area**

7. A fuller site description can be found in the SoCG, but in summary the appeal relates to the former Fremington Army Camp, which is some 15.70 hectares in size and is located to the north of Church Hill/Yelland Road (the B3233) between Fremington village to the south and the Taw Estuary beyond open fields to the north. The site is bordered by open fields to the west, and to the east there is a creek and salt marsh which feeds into the estuary. The Grade II\* listed St Peter's Church and the Grade II\* Fremington Manor lie to the south of the camp, along with residential properties and the main village facilities. Access to the site is from the south, from Church Hill, along an unnamed, private road (known locally as Military Road), which also serves a small number of other properties.
8. The army camp, which was closed for operational purposes by the Ministry of Defence ("MOD") in December 2009, contains a large number of predominantly single storey military buildings, which include accommodation blocks, kitchens, officers' mess, aircraft hangar, workshops and gymnasium. The majority of these buildings are in a poor state of repair.
9. Fremington has a range of local facilities including a primary school, Medical Centre, Dental Surgery, Church, Village Hall and a parade of shops. There are public transport connections in both east and west directions along Yelland Road and Church Hill for trips to Barnstaple, Bideford, Northam and Appledore. In

addition, the Tarka Trail cycleway runs to the north of the site, linking Braunton and Meeth, using old railway tracks.

## **Reasons - Appeal A**

### *Policy considerations and background*

10. At the time the Council considered these proposals, and when the inquiry opened, the development plan consisted of the Regional Planning Guidance for the South West (RPG10 – “the Regional Strategy”); The Devon Structure Plan (“SP”); and saved policies in the North Devon Local Plan (“the Local Plan”). However, an Order to revoke the Regional Strategy came into force during the course of the inquiry, and it is therefore necessary to review the planning policies against which these appeals have to be determined. It is also necessary to examine the policies alongside guidance in the National Planning Policy Framework (“the Framework”), which provides the most up-to-date statement of Government planning policy and is an important material consideration.
11. The Order which revoked the Regional Strategy also revoked all SP policies relevant to these appeals. As a result, by the time the inquiry closed the development plan, effectively, comprised just the saved policies of the Local Plan. Four policies are particularly relevant, as detailed below, with 3 of these cited in the reasons for refusal and the fourth being discussed at the inquiry.
12. Policy FRE2 specifically allocates the army camp (subject to it becoming surplus to MOD requirements) for “a range of uses comprising about 200 dwellings including at least 50 affordable homes, office and light industry (B1 Uses), recreational open space and associated community facilities”. It specifies 6 criteria which redevelopment will be required to meet and whilst some of these, such as the preparation of a development brief, the inclusion of an element of light industry and the provision of a bus waiting and turning area are not part of the appeal proposal, the SoCG indicates that the Council takes no issue with these matters.
13. Indeed, the only matters in dispute between the Council and the appellant are the acceptability of the proposed highway improvements from Church Hill and the related matter of whether the Devon County Council (“DCC”) consultation response on highway matters should be regarded as correct. In summary, the view of DCC as local highway authority (“LHA”) is that subject to the satisfactory installation of a primary traffic signal and stop line on the Church car park egress, there is no technical highway safety or capacity reason why planning permission should not be granted.
14. On the basis of this advice, Council Officers recommended that there were no highway reasons why the application should not be approved, but Members of the Planning Committee took a contrary view and refused planning permission for 2 reasons, the first of which specifically maintained that the proposed access arrangements were unacceptable. This view was supported by the Army Camp Safe Access Group (“ACSAG”), which appeared at the inquiry as a Rule 6(6) Party.
15. I deal with these points in more detail under the first main issue, but insofar as the policy itself is concerned, there is no dispute between all the parties that it should be seen as up to date and in general conformity with the Framework. I share that view. Moreover, I note that the emerging version of this policy contained in the January 2013 Consultation Draft of the Local Plan is of a broadly similar form and is reflective of the detail put forward in the appeal proposal.

16. The supporting text to Policy FRE2 refers to Policy TRA6, which is entitled "General Highway Considerations". It indicates that development will only be permitted where 3 criteria are met. The first of these is that provision is made for safe access onto and egress from the highway for all forms of travel serving the site, whilst the second requires that the functioning of the road network or the safety of highway users is not harmed.
17. There is general agreement between the parties that these criteria reflect the requirements set out in the 2<sup>nd</sup> and 3<sup>rd</sup> bullet points of paragraph 32 of the Framework. However, the parties take differing views regarding the final criterion of Policy TRA6, which indicates that the character and setting of the locality should not be harmed by any highway works necessary to accommodate the level of traffic generated by the development.
18. The appellant argues that this requirement for "no harm" conflicts with the final bullet point of Framework paragraph 32, which states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. Accordingly, the appellant contends that Policy TRA6 should be regarded as being out of date, and makes reference to a recent High Court Judgment by Mr Justice Parker<sup>1</sup>, which specifically considered the primacy of the development plan and the wording of development plan policies in the post-Framework era.
19. In summary, Mr Justice Parker ruled that policies which do not permit any countervailing economic or similar benefit to be weighed in the scales are very far removed from what he described as the "cost/benefit approach" of the Framework. He specifically ruled that any suggestion that such benefits may be implicitly taken into account should be rejected, as running directly contrary to both the language and rationale of the relevant policies. I return to this matter, below, in the context of Local Plan policies ENV16 and ENV17, but insofar as Policy TRA6 is concerned, applying this ruling means that the 3<sup>rd</sup> criterion of this policy has to be seen as inconsistent with the Framework. Whilst this does not render Policy TRA6, as a whole, out of date, it does lessen the weight it can carry.
20. The supporting text to Policy FRE2 also makes reference to Policy ENV16, which states that development within or affecting a conservation area will only be permitted where it preserves or enhances the character or appearance of the area. Whilst not referred to in the reasons for refusal, the Council's Appeal Statement indicates that it also considers Policy ENV17 to be relevant in this appeal. This states that development affecting a listed building will only be permitted where it preserves the architectural or historic interest of the building, its features and its setting.
21. The appellant's case is that these heritage policies are inconsistent with the holistic approach to sustainable development set out in the Framework because, as written, they create a bar to development if there is any adverse impact. In light of the Justice Parker ruling already referred to I share this view. I acknowledge that the Council has always applied these policies in a flexible manner, having regard to the statutory duties set out in the Planning (Listed Buildings and Conservation Areas) Act 1990 ("the PLBCA Act"). But the fact remains that as written, they do not accord with the Framework's "cost/benefit" approach detailed above.

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<sup>1</sup> High Court of Justice Queen's Bench Division [2013] EWHC 1138 (Admin): Between Anita Colman and Secretary of State for Communities and Local Government and North Devon Council and RWE Npower Renewables Limited

22. In summary, whilst there are some aspects of the relevant policies which accord with the Framework's guidance, others clearly do not. On balance, therefore I consider it more appropriate to adopt the approach set out in the 2<sup>nd</sup> decision-taking bullet point of paragraph 14 of the Framework. This indicates that planning 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 if specific policies in the Framework indicate development should be restricted.

#### *Access arrangements*

23. Location of the access. There was much discussion at the inquiry as to whether Policy FRE2 could or should be read as precisely defining where the main access to the redeveloped army camp should be taken from. Criterion "C" simply states "access improvements from Church Hill", with elaboration in the supporting text stating that "access onto the site frontage from Church Hill will need to be improved in accordance with Policy TRA6 and must ensure the retention of the Grade II listed walls of the Old Manor House to reflect Policy ENV17".
24. There can be no way of knowing, definitively, what was in the mind of the Local Plan Inspector insofar as access arrangements are concerned. However, it is the case that the army camp was included as a redevelopment site in the Deposit Version of the Local Plan with provision for about 200 dwellings, an element of light industry and community uses, and that it attracted a number of objections. It is also the case that at the time of the Local Plan inquiry, in 2004, the army camp was still in operation, with access along Military Road.
25. In these circumstances I consider that if there had been any serious concerns about the ability of the existing access to serve the proposed redevelopment site, albeit in a somewhat improved form, they would have been put before the Inspector as objections. The absence of any such objections, especially when it is clear that DCC had considered and assessed this site, lead me to believe that the Inspector saw no reason why access should not be provided by means of an improved Military Road. I therefore consider it quite reasonable that the appellant has sought to provide access along this route, although I acknowledge that if access were to be provided from elsewhere along Church Hill (or Yelland Road) it would still accord with criterion "C" of Policy FRE2.
26. Proposed access layout and the design process. The appellant explained that the design of the proposed access route along Military Road has involved a lengthy process of consultation and discussion with the LHA, and with Council Officers in respect of conservation and design matters. Several different options for the junction with Church Hill have been considered, including a priority junction with build out and a mini-roundabout. However, these options were not pursued due to what the appellant described as the LHA's concerns about potential safety issues and issues relating to the purchase of third party land required for the roundabout.
27. The design and consultation process has culminated in the currently proposed layout which comprises a carriageway with a minimum width of 5.0m (apart from at a localised narrowing to restrict traffic flow to one-way working), and a continuous footway varying in width between 1.0m and 1.8m on the south and western side of Military Road. There would be a verge of varying width on the north and eastern side of the road, adjacent, in part to the listed walls of the Manor and the churchyard. The junction between Military Road and Church Hill

would be traffic signal controlled, and would also incorporate signalisation of the adjacent Higher Road/Church Hill junction, along with further signals at the Church car park egress onto Church Hill.

28. This scheme had the support of DCC Officers and also Members of the DCC Development Management ("DM") Committee, to whom the matter had been referred. The initial resolution of this Committee, raising no objections on highway safety or capacity grounds, was rescinded following legal representations and a legal opinion which established that the former army camp use had to be considered as formally abandoned. At a subsequent meeting of the Committee, in September 2012, Council Members gave further consideration to this matter in the light of this legal opinion, and following a visit to the site by some Committee Members in August 2012 at which representations were made by local residents opposing the proposal, and by the appellant.
29. A Report from the DCC Head of Planning Transportation and Environment was before the September Committee. This recommended, amongst other things, that the LHA resolve that subject to the satisfactory installation of a primary signal and stop line on the Church car park egress, there is no technical highway safety or capacity reason why planning permission should not be granted. Committee Members had also received a response from PCL Transport, on behalf of ACSAG, criticising this DCC Report; as well as written representations from ACSAG opposing the proposed access scheme.
30. The report from PCL Transport contended that DCC's primary interest was the signalised junction with Church Hill, and that at no time did the LHA consider the safe functioning of Military Road. It also criticised the DCC Report, maintaining that it only reiterated the contents and conclusions of the appellant's Transport Assessment ("the TA") and that DCC did not appear to have undertaken any independent work of its own. However, these points do not appear to be borne out by the DCC Report which was before the Committee, which contains clear references to and assessments of the proposed design and operation of Military Road with regards to vehicles, pedestrians and the emergency services.
31. I have already noted that discussions had been ongoing between the appellant and DCC since 2010, and I also understand that assessments from ACSAG, including the Road Safety Audit it produced in December 2011, had also been placed before DCC Officers as part of these discussions. It is apparent that an extensive assessment of the proposed access arrangements has been undertaken by both the appellant and DCC, and that opposing views such as those put forward by ACSAG have also been considered. However, at the conclusion of this process it is clear that DCC Officers were satisfied that the final scheme was acceptable. Because of this I do not find it surprising that the DM Committee Report should echo the findings of the TA.
32. In addition, I note that the DM Committee Report had, appended to it, a note of the site meeting undertaken in August 2012 which included a detailed list of some 19 points of objection to the design, operation and use of Military Road, raised by local residents. Moreover, 4 of the 5 Committee Members who attended the site visit were also present at the Committee Meeting. In view of all these points I am satisfied that when Council Members resolved to raise no objection, they did so in the full knowledge of the points being put forward both for and against the proposal. Although ACSAG has pointed out that the Committee only approved this resolution by 7 votes to 6, I pay little regard to this criticism of what was plainly a democratically made decision of the LHA.

33. There is general agreement between the parties that relevant guidance for the design of the access route is to be found in Manual for Streets ("MfS"), issued in 2007, and Manual for Streets 2 ("MfS2"), issued in 2010. Although both the Council and ACSAG made reference to the Devon Design Guide, published in 1996 and last updated in 2001, I give this limited weight as the basis of much of its content was Design Bulletin 32, which has now been superseded by MfS.
34. MfS introduced a different approach to street design, moving away from primarily aiming to meet the needs of motor traffic, to more inclusive designs, with designers encouraged to place a high priority on meeting the needs of pedestrians, cyclists and public transport users, so that growth in these modes of travel is encouraged. MfS2 builds on the philosophies set out in MfS and aims to extend these principles of design to other than purely residential streets.
35. I am therefore satisfied that it is appropriate to base the design of improvements to Military Road on the principles set out in MfS and MfS2. It is clearly the case that constraints are placed on the design of this road by physical features such as the overall width available, its alignment and the presence of the walls to the Church and Manor. The design has therefore had to respond to these constraints, and this has meant that there has to be variation in the width of both carriageway and footway along its length. In this regard I have noted ACSAG's concerns about the likely impact of the proposed highway works on the stability of the listed walls around the churchyard, and also its contention that a 0.45m clearance should be provided between the carriageway edge and any obstruction.
36. On the first point, I saw at my site visit that a verge/bank of varying width and height lies adjacent to a short length of the churchyard wall, and it is clear that this would need to be removed or disturbed, to allow the highway improvement works to be carried out. However, having regard to the fact that there is no verge or bank alongside the wall within the car park area, I see no reason why its removal/replacement along a stretch of Military Road need have unacceptable consequences. On the second point I share the appellant's view that to incorporate such a clearance or buffer would act against the general design principles of MfS which, in summary, discourage the building of streets that are primarily designed to meet the needs of motor traffic.
37. The principal objection from ACSAG is its contention that Military Road is not capable of providing a safe and satisfactory access and that an alternative access should therefore be pursued. It suggests a number of alternatives, all of which it maintains would be capable of providing a better standard of access, with a new route along the Fremington Pill track, to enter the appeal site at its eastern side, being put forward as the most promising alternative. I return to this matter later in my decision but the key matter I am required to address is not whether an alternative access could be achieved, but whether the access currently proposed would be safe and suitable. It is to these points I now turn.
38. Vehicle movements. The SoCG contains agreed trip generation rates from TRICS<sup>2</sup>. These show that 187 vehicles are predicted for the AM peak hour (47 entering and 140 leaving) with 206 vehicles predicted for the PM peak hour (132 entering and 74 leaving). These figures are agreed to be robust as they are based on 300 "privately owned" houses, whereas the development is proposed to contain 277 dwellings, of which 25% would be affordable housing which typically generate fewer vehicle trips than market housing. It is also agreed that trips to and from

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<sup>2</sup> TRICS – Trip Rate Information Computer System

the proposed open space and community uses would largely take place outside weekday peak hours. I see no reason to take a contrary view on any of these matters.

39. TRICS generation rates have also been used to establish likely numbers of heavy goods vehicles ("HGVs") using Military Road. The unchallenged figures indicate that for the 12 hour period 0700-1900 the maximum predicted flow of HGVs would be 1 entering the site and 1 leaving the site, within an hour. I share the appellant's view that in many cases this would be the same vehicle entering the site, making a delivery or collection, and then leaving.
40. Much was made by both the Council and ACSAG of the view of the DCC Traffic Signals Officer, which was that the Military Road access should have a minimum width of 7.8m, comprising two 3m carriageways and a 1.8m footway. However, MfS indicates that it is not necessary to have a road of this standard to serve a development such as this. It explains that a carriageway width of 4.8m is sufficient to enable 2-way traffic with sufficient space for 2 cars, a car and a service vehicle or a service vehicle and a cyclist to safely pass without conflict. It is clear, from the predicted traffic figures detailed above, that the majority of vehicle/vehicle interactions would be between 2 cars, with occasionally cars and HGVs needing to pass.
41. Accordingly, the LHA was satisfied that a minimum carriageway width of 5.0m throughout the length of the access would be adequate to accommodate the predicted movements. The detailed drawings which have been submitted to DCC for highway adoption purposes shows that this can be achieved. The scheme also shows some localised widening on bends, with 6.6m closest to the site itself and 5.9m at the bend roughly half-way along the road, by the property "High Lea". There are other points along the route where the carriageway also widens, to between 5.1 and 5.5m.
42. There would, of course, be occasions when 2 HGVs would need to pass, and if this occurred on a 5m wide section I acknowledge that the available space would be very restrictive. However, the typical dimensions for such vehicles, shown in MfS, indicate that they could just pass on a carriageway of 5m width but would need to pull in their offside wing mirrors. I acknowledge that this is a manoeuvre which would have to be undertaken very carefully, but as it would clearly have to be undertaken at slow speed I consider that it would be a safe manoeuvre.
43. Importantly, the predicted traffic figures indicate that the situation of 2 HGVs meeting on Military Road would only occur very infrequently, and in this regard I have been mindful of the guidance in MfS that larger vehicles which are only expected to use a street infrequently need not be fully accommodated. To do so would allow their requirements to dominate the layout, which would be at odds with the over-riding principles of inclusive design which MfS promotes. In view of the above points I am satisfied that the carriageway width proposed for Military Road would be suitable for the volume and mix of vehicles expected, and that these vehicles could be accommodated in a safe manner.
44. Emergency services and construction vehicles. MfS makes it clear that the requirements for emergency vehicles are generally dictated by the fire service. A minimum carriageway width of 2.75m is required for such vehicles (limited to short distances), and the appeal scheme would provide well in excess of this throughout the length of Military Road. Objectors, including ACSAG, contend that a residential development of the size proposed here should, at the very least,



provide a second, emergency access. Indeed the Council's 1<sup>st</sup> reason for refusal contends that the absence of a secondary access would present an unacceptable risk to occupiers of the proposed development.

45. However, when the fire service was consulted on this application it was informed that Military Road was intended to be the sole access to the site, and that no separate emergency access would be provided. It did not object to this, and confirmed that the access arrangements as proposed would provide satisfactory access for emergency vehicles. I see no reason to take a contrary view.
46. Further concerns were raised by objectors regarding the ability of the proposed access to accommodate construction vehicles. In any initial phase of site development there would have to be demolition and removal of the existing military buildings, along with site clearance and site preparation. There is no suggestion that any unusually-sized vehicles would be needed for this phase and I see no reason why vehicles undertaking these operations should encounter any difficulties using Military Road or why their use of it should give rise to safety concerns. Such movements would, in any case, be capable of being controlled through a Construction Traffic Management Plan ("CTMP"), which could be imposed by condition on any planning permission.
47. In later phases of development construction vehicles would have to mix with new residents' vehicles. However, this is not an uncommon situation with new housing developments and I am not persuaded, given the safeguards that a CTMP could provide, that this is a matter for serious concern.
48. Traffic signal junction. The proposed traffic signal controlled junction with Church Hill is the only location where existing physical constraints, including a metal hoop in the edge of the carriageway, mean that the available carriageway width drops to below 5m. The walls around the Grade II listed War Memorial reduce the carriageway to some 4m and this has necessitated the setting back of the stop line on Military Road by some 6m or so from this localised narrowing.
49. I accept that the wall and tall vegetation around the Dental Surgery, on the north-western side of this junction, would inhibit inter-visibility between vehicles turning into Military Road from Church Hill and vehicles waiting at the Military Road stop line. However, whilst this could give rise to some difficulties if the vehicles entering Military Road and waiting at the stop line both happen to be HGVs, the traffic figures indicate that such occurrences would be very infrequent. Moreover, the junction radius means, in my assessment, that vehicles entering Military Road would do so at a relatively slow speed, despite assertions to the contrary from ACSAG, allowing time for the entering vehicle to reposition itself.
50. In any case, MfS2 states that at a traffic signal stop line, where HGVs and buses make up only a small proportion of traffic flow, 2-2.5m wide lanes would be sufficient for most vehicles and would reduce overall carriageway width requirements, making it easier for pedestrians to cross. In light of this guidance I consider that the proposed arrangements would be acceptable and in accord with the general MfS principles.
51. Pedestrian movements. During the course of the inquiry the appellant reassessed its predictions of the likely maximum peak hour pedestrian flow, indicating that at the busiest time of day, assumed to be the AM peak hour, there might be up to 151 adult and child pedestrians using Military Road. This is based on the

predicted number of primary school children (68), each being accompanied by an adult, together with a total of 15 other morning peak hour pedestrians.

52. As it is likely that some children will walk together and others may well be dropped off at school by car, by parents on their way to work, I consider the appellant's contention that these figures would represent a "worst case" to be reasonable. The appellant has assumed these school journeys would be concentrated into about a 15 minute period within the peak hour, and on this basis has estimated that Military Road could be carrying about 9 pedestrians per minute. Again, these figures do not appear unreasonable.
53. The scheme drawings indicate that for the majority of its length the continuous footway would be predominantly between 1.2m and 1.35m wide on the north-south stretch, and 1.35m to 1.8m on the east-west length closer to the site. MfS indicates that in lightly used streets, such as those with a purely residential function, the minimum unobstructed width for pedestrians should generally be 2m. It is clear that this would not be achieved with the proposed scheme. However, MfS advises that further guidance on minimum footway widths can be found in "Inclusive Mobility"<sup>3</sup> and MfS itself indicates that a single pedestrian can be assumed to occupy a width of 0.75m; a wheelchair user 0.9m; an adult pedestrian with a child, 1.2m; and 2 adults, one pushing a buggy, 1.5m.
54. Inclusive Mobility notes that in an historic environment, changes needed to improve accessibility should be made with sensitivity for site context, and it seems to me that the presence of listed walls means that this guidance is applicable here. Whilst Inclusive Mobility states that 1.5m could be regarded as the minimum acceptable width under most circumstances, it further states that the absolute minimum footway width, where there is an obstacle, should be 1.0m clear space, and that the maximum length of restricted width should be 6m.
55. In the appeal scheme there would be 2 lengths of footway at 1.0m wide, with one of these being 5.1m in length and the other 6.2m. Whilst this latter stretch marginally exceeds the maximum recommended in Inclusive Mobility, I am not persuaded that this would give rise to any significant harm, especially as this narrowed section would be very close to the proposed build-out, where pedestrians could group and wait if necessary.
56. It is clear that this footway would be below the width generally seen as desirable, but it does not automatically follow that the provision should be seen as unsafe or unsuitable. Although ACSAG maintained that the pedestrian flow figures indicated that there would be frequent meetings between pedestrians, I am not persuaded that "meetings" necessarily equate to "conflict". In any case it is clear that during the period of highest pedestrian flow (the morning peak hour), the vast majority of pedestrians would be travelling in the same (outbound) direction, on the opposite side of Military Road to the predominant (outbound) vehicle flow. This would serve to minimise potential conflicts between pedestrians and one another; and also between vehicles and pedestrians.
57. Although 2 of the appellant's witnesses took different views, regarding whether pedestrians would primarily use the footway or the carriageway, I do not see this as in any way suggesting that the proposed layout would not be safe. It seems self-evident to me that as a continuous footway is proposed, it would be used by

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<sup>3</sup> Inclusive Mobility – A Guide to Best Practice on Access to Pedestrian and Transport Infrastructure - Department for Transport 2002

the vast majority of pedestrians. But if a pedestrian felt it necessary to step onto the carriageway to pass another pedestrian or wheelchair user, I am satisfied that the relatively low traffic flows and the good visibility would ensure that such manoeuvres could be undertaken safely.

58. In this respect I share the appellant's view that all road users need to take responsibility for their own actions and safety, and whilst I accept that children and the elderly may, at times, act differently to the majority of road users, the fact that the physical constraints would be likely to ensure slow speeds leads me to the view that the design would not be inherently unsafe. I also note the appellant's comment that highway safety should not be confused with the elimination of all risk, with both the Highway Code and MfS making it plain that drivers must take the road and traffic conditions into account.
59. IN addition I have had regard to the guidance in the document "Highway Risk and Liability Claims"<sup>4</sup>. This explains, amongst other matters, that in considering the use of the highway, the objective of the highway authority is to obtain the maximum benefits for the community, and it notes that this task is wholly different to that of minimising risk. It goes on to say that local authorities should not become locked into a risk management mentality, pointing out that the role of a local authority is to seek advantage for the community and that this will necessarily involve some risks, with a balanced view needing to be taken.
60. Insofar as wheelchair users are concerned, I acknowledge that the proposed footway would provide only a single "formal" location where such users could pass one another, at the build-out opposite the northern end of the Church car park. However, there would be other "informal" passing places, at dropped kerbs, and as the visibility is good along the separate sections of Military Road, as already noted, I am not persuaded that the proposed design would unacceptably disadvantage wheelchair users, or be in conflict with section 149 of the Equality Act 2010, cited by ACSAG.
61. Some concern was expressed that pedestrians on the footway, especially in the vicinity of the signalised junction, could be in danger from overhanging wing mirrors of large vehicles. But again, I take the view that the low predicted numbers of HGVs using Military Road, coupled with slow speeds and generally good visibility, mean that such potential incidents would not be commonplace, and are not something which points to an unsuitable or unsafe design.
62. Although the SoCG indicates that the site is agreed to be in a sustainable location, the Council argued that the access arrangements would not be safe for pedestrians and cyclists and, more than that, would not be perceived to be safe. As a result it is the Council's case that such users would be discouraged, and that this would work against the aims of promoting the use of more sustainable modes of transport set out in the Framework. However, I have already concluded, above, that any conflict between pedestrians or between pedestrians and vehicles would not be so significant as to render Military Road unsafe.
63. Moreover, I am conscious of the fact that people wishing to use public transport to travel to Barnstaple and other destinations to the east would be likely to use the combined footway/cycleway proposed for the eastern side of the site, to access the bus stop by the New Inn. This would reduce the likely number of pedestrians

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<sup>4</sup> Highway Risk and Liability Claims – Second Edition, 2009 – produced by the UK Roads Board and the Institution of Civil Engineers

on Military Road. Cyclists could clearly also use this eastern route, but if they were to choose to use Military Road I am satisfied that they would be able to do so safely, as its layout would discourage drivers from trying to squeeze past cyclists, with the result that cycle use could well be encouraged.

64. On other highway-related matters, concerns were raised regarding difficulties which could arise for vehicles accessing the shops and car park opposite Military Road. These are served by Higher Road, with the car park entrance close to the junction with Church Hill. Traffic waiting at the Higher Road stop line would queue back past the car park entrance but I see no reason why "Keep Clear" markings, as proposed, would not allow adequate access and egress to be maintained. Whilst I was told that some of the shops are serviced from the car park, I saw at my site visit that there is a separate servicing area to the rear of the shops and I see no good reason why this could not be satisfactorily used. Overall, for the reasons detailed above, I am not persuaded that any changes to the road layout in the vicinity of this Higher Road car park would be so significant as to materially weigh against the proposal.
65. Summary on the 1<sup>st</sup> main issue. I have considered all the detailed highways evidence put forward by the appellant, the Council and ACSAG, and have noted the clear areas of disagreement between the various witnesses. However, my own review and assessment of the proposal, outlined above, leads me to conclude that, on balance, the proposed improvements to Military Road would provide safe and suitable access arrangements for all users. In addition, the traffic signals proposed for the Military Road/Church Hill/Higher Road junction would provide safer crossing facilities of these roads for all users. In view of these points I find no conflict with Local Plan Policies FRE2 and TRA6, nor with the guidance set out in the Framework on such matters.

*Effect on living conditions*

66. Part of the Council's 1<sup>st</sup> reason for refusal alleged that traffic queuing as a result of the proposed access arrangements would have an unacceptable impact on the privacy of the occupiers of properties in the immediate vicinity of Military Road and Church Hill. The particular concern, elaborated on at the inquiry, is that there would be a number of properties, notably the listed cottages at 1-5 Church Hill and at Nos 1 & 2 Hilltop Cottages, to the west of Military Road, which would have stationary traffic outside them when the traffic signals were at red. As these properties generally only have moving traffic in front of them at present, the Council maintained that this change would result in an adverse impact on the living conditions of occupiers of these premises.
67. Loss of privacy was the only concern cited in the reason for refusal, but the Council's written evidence also referred to increased noise and reduced air quality. However, no further detail was provided by the Council on these latter 2 matters and no firm evidence was submitted to support the claims of an adverse impact in these regards. Insofar as a loss of privacy is concerned, it is accepted that the introduction of traffic signals at Military Road/Church Hill/Higher Road would result in traffic queuing at the junction and the transport evidence indicates that during peak periods these queues would extend past the aforementioned properties. That said, the proposed removal of the slip road past Nos 1-5 Church Hill would clearly move both queuing and moving traffic further away from these dwellings.
68. Furthermore, all of these properties, which currently experience moving traffic past their windows, also have footways very close to their front elevations, such

that there is already the potential for a certain loss of privacy as a result of passing pedestrians. Many of the properties have net curtains at their windows, presumably to safeguard privacy, and having regard to all these points I am not persuaded that the occasional presence of queuing vehicles would materially worsen privacy to the extent that planning permission should be withheld. Accordingly I find no conflict with Local Plan Policy DVS3 which, amongst other matters, seeks to ensure that new development does not harm the amenities of neighbouring uses.

*Effect on character and appearance of the conservation area, and on the setting of listed buildings*

69. The appeal site is located within the Fremington Conservation Area, in close proximity to a number of heritage assets, including listed buildings and structures. Because of this I have been mindful of the statutory duties set out in Sections 66 and 72 of the PLBCA Act.
70. A full agreed account of the existing heritage context is provided within the SoCG. In summary the appellant and the Council agree that the proposed development would lead to less than substantial harm to the significance of the following heritage assets and their settings in the immediate vicinity of the site entrance only: Fremington Conservation Area; Nos 1-5 Church Hill (listed Grade II); the Church of St Peter (listed Grade II\*); the War Memorial (listed Grade II); and Fremington Manor (listed Grade II\*), in particular its Entrance Gateway (listed Grade II) and garden walls (curtilage listed).
71. There is also agreement that the proposal would result in the following improvements to heritage assets beyond the immediate vicinity of the site entrance: the immediate setting of the garden walls (listed Grade II) associated with Fremington Manor; the immediate setting of the Gazebo (listed Grade II\*) built into the garden wall; and the overall appearance of the conservation area due to the location, appearance and condition of the military buildings.
72. All 3 heritage witnesses agreed that as the proposed access arrangements would result in less than substantial harm to the significance of heritage assets, paragraph 134 of the Framework would be engaged. This explains that in such circumstances, the harm should be weighed against the public benefits of the proposal, including securing the optimum viable use of the assets. To undertake this balancing exercise and to discharge the statutory duties referred to above, it is necessary to consider and assess the various changes which the proposal would bring about in the conservation area and to the setting of listed buildings.
73. Such an exercise was specifically undertaken by the Council's heritage witness, who submitted his assessment of the net heritage benefits of the proposal to the inquiry in a tabular form. This was a helpful exercise, which focussed attention on discrete areas of concern, but in my view it was somewhat flawed by a lack of consistency with some of the items already agreed between the appellant and the Council in the SoCG. Nevertheless, I have used this table as the basis for my own assessment, supplemented as necessary with details gleaned from the submitted photomontages and also my observations made on site.
74. The appeal site. The proposal would bring about improvements to the immediate setting of the Grade II walled garden and the Grade II\* Gazebo, by removing a number of 1940s military buildings which are sited very close to these listed structures. Moreover, the proposed creation of a landscaped buffer zone around

the garden wall and Gazebo would further improve and enhance their setting. I see these points as clear overall benefits of the proposal and have noted that this general area features as a "key view" in the Fremington Conservation Area Character Appraisal ("FCACA"). Because of this, and as the buildings in question are generally agreed by both English Heritage ("EH") and the Council to have negligible intrinsic or aesthetic value, I do not share the Council's view that these benefits are more or less negated by the need to demolish 7 buildings within the conservation area.

75. Clear net benefits would also arise from the proposed site layout which has been designed to create "sight lines" which would culminate in such features as the Gazebo and the Church. It is self-evident that re-development of the army camp in the form envisaged by Local Plan Policy FRE2 would necessitate the removal of the vast majority of the existing military buildings and structures on the site, and this has been considered acceptable by EH, which has raised no formal objection to the proposal. In any case, it is apparent from the submitted evidence that many of the surviving buildings now exist in a much-altered form, with many being in poor structural condition and built of hazardous materials.
76. In these circumstances the Council's claim, at the inquiry, that the near total loss of the layout and plan form of the army camp would virtually negate any benefits does not sit easily with earlier Officer comments made at internal consultation stage. These were to the effect that the retention of 2 examples of buildings should be sufficient to allow for an appreciation and understanding of what the site as a whole looked like when in use. Indeed, the retention of 2 of the original military buildings and their adaptation for community use forms part of the appeal proposal, and this aspect of the proposed development appears to have the support of the Council.
77. But once again the Council maintained, at the inquiry, that any benefits in this regard would be more or less cancelled out by the demolition of some 54 buildings on the site. As above, this view does not sit comfortably with the Council's agreement in the SoCG that the proposals for the appeal site itself would result in improvements to heritage assets beyond the immediate vicinity of the site entrance. To my mind the character of this part of the conservation area would be preserved by these actions. Overall, for the reasons set out above it is my assessment that these aspects of the appeal proposal would result in a clear net benefit to the setting of important heritage assets within the site.
78. The wider area. It is generally agreed by all parties that the area of greatest impact would be around the junction of Military Road and Church Hill, especially with the need to erect traffic signal poles and heads. Two of the key views detailed in the FCACA relate to this general locality, namely views in both easterly and westerly directions along Church Hill, and views towards the Church from the vicinity of the Higher Road junction.
79. Dealing first with views along Church Hill, I saw at my site visit that the area already has a number of items of necessary street furniture, such as street-lighting columns, telegraph poles and associated wires, road signs, illuminated bollards and crossing point light, metal bollards and litter bins. These are not overly intrusive and as they represent fairly commonplace items in an urban/semi-urban setting such as this, they do not dominate views along the road in either direction. What clearly is apparent in such views, however, is the presence of the modern parade of shops with a busy parking area in front. Although lying outside the conservation area there is general agreement between the parties that these

shops and parking area have a considerably adverse effect on the character of this part of the conservation area.

80. St Peter's Church is set back some distance from the junction and screened, to a certain extent, by the more modern Church Hall which lies close to the Church's parking area and the tall, mature trees set to the front of the Church. As a result, the Church does not feature as an overly prominent element of the Church Hill street-scene. Views towards the Church from Church Hill are relatively uncluttered by street furniture, with the mature trees forming a backdrop for telegraph poles and the like.
81. Into this setting the main visual change would clearly arise from the introduction of a total of 9 traffic signal poles with lighting heads, together with 6 lower columns housing the push-button installations for the pedestrian crossings. The photomontages indicate that reflectorised "Keep Left" bollards would also be erected, on the central islands at the eastern and western ends of the junction, and at a further proposed crossing point a little to the east on Church Hill.
82. These features would create a somewhat more urbanised feel to the area, and their physical presence, and the fact that standing traffic would become a feature at the junction, would all serve to adversely impact on the setting of the Church, the War Memorial and the listed cottages at Nos 1-5 Church Hill. However, the set-back location of the Church means that the presence of signal poles would only intrude into views of it to a limited degree, with any impact being lessened by the distance involved and the presence of intervening structures and vegetation.
83. In addition, visual harm to the setting of the War Memorial resulting from the presence of signal poles would be offset, to some extent, by the proposed removal of the litter bin and improvements to the footway surfacing throughout the junction. The proposed junction works would have very little impact, if any, on the setting of Fremington Manor, as it is well-screened from Church Hill at this point.
84. The scheme would also provide improvements to the setting of Nos 1-5 Church Hill as the current left-turn slip in front of these properties would be removed. This area is proposed to be landscaped and provided with 4 parking bays, and whilst I acknowledge that roadside parking is seen as a weakness within the Fremington Conservation Area Management Plan, the fact that vehicles can already park on the slip road at certain times of the day undermines this objection to some degree.
85. I have noted ACSAG's comment that the traffic signals would be seen as "crowning" the top of Church Hill, when viewed from the east, and I also acknowledge that the prominence of the traffic signals would be increased by the very fact that they are, of necessity, illuminated. However, although I accept that traffic signals are not present elsewhere in the village they are relatively common roadside features and because of this I am not persuaded that they, or any of the other proposed features of the improved junction, would be unacceptably out of keeping with the present-day appearance and functioning of this area.
86. Finally, the Council has commented that proposed white lining, including stop lines and directional arrows would create further visual clutter. But as carriageway markings and other road signs already exist in the area, I do not consider that any additional markings would detract significantly from any visual improvements which would be provided. Overall, it is my view that most of the individual

elements of street furniture for the proposed junction would have very little physical presence in their own right, and their proposed spacing around the junction leads me to the view that their impact would be relatively limited.

87. Summary on the 3<sup>rd</sup> main issue. There is no dispute between the parties that the proposed development would give rise to less than substantial harm to the significance of heritage assets in the immediate vicinity of the site entrance. However, I do not consider that this harm should carry considerable weight, as maintained by the Council, because there would be some significant benefits to the setting of other listed buildings, on the site itself, which would offset this harm. That said, as the area around the Military Road junction and the Church is a more "public" area of the village than inside the appeal site, I consider that the harm caused in this area should be the main factor in this issue.
88. My overall conclusion on the heritage issue is therefore that although the proposal has had full regard to the statutory duties under Sections 66 and 72 of the PLBCA Act, there would still be a small adverse impact on the setting of the Church, the War Memorial and Nos 1-5 Church Hill, with the proposal just failing to preserve the character and appearance of the conservation area as a whole.
89. This means, to use the appellant's phraseology, that there would be a technical breach of Local Plan Policies ENV16 and ENV17. But as I have concluded earlier in this decision, these policies, if applied rigidly would not be consistent with the Framework. In situations like this Paragraph 134 of the Framework requires the harm to be weighed against the public benefits of the proposal, including securing the optimum viable use of the assets. I undertake this balancing exercise at the end of my consideration of Appeal A, but before doing so I examine a number of other matters raised at the inquiry.

#### *Other matters*

90. Alternative access arrangements. Much of ACSAG's case was based on its contention that a better access, both in terms of impact on heritage assets and highway safety, could and should be achieved at an alternative location. However, I have already indicated that it is not my role to seek alternatives to the submitted scheme, but rather to assess the submitted scheme against relevant development plan policies, having regard to all material considerations including the Framework. In this regard the appellant drew attention to a Court of Appeal judgement<sup>5</sup> concerning alternatives. This ruled, in summary, that where a proposed development, which is desirable in itself, would involve, on the site proposed, such conspicuous adverse effects, then the possibility of an alternative site lacking such drawbacks necessarily would become a relevant planning consideration.
91. ACSAG argued that a new priority junction opposite Old School Lane and a new 5.5m wide access road along the line of the Fremington Pill track entering the appeal site at its eastern side, could provide a satisfactory and preferable alternative to the Military Road access route. This alternative proposal has not been worked up in any great detail, and that is understandable as it is not the responsibility of an objector to submit detailed alternative proposals. Nevertheless, on the basis of the information which is before me, I am not persuaded, when all relevant matters are considered, that this ACSAG alternative would, indeed, be both preferable and acceptable.

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<sup>5</sup> R (on the allocation of Scott) v North Warwickshire Borough Council [2001] EWCA Civ 315



92. I acknowledge that there are fewer designated heritage assets at this location than in the vicinity of the Military Road junction, and that no traffic signals would be needed. But the scheme would entail the construction of a new junction, with road widening and a significant increase in carriageway markings, immediately adjacent to the Grade II listed New Inn. It would also introduce a new road within the setting of Fremington Manor and would be directly visible in 2 of the key views shown in the FCACA. In addition, it would require a sliver of land from most of the frontage of the open area referred to as the village green, and would also require a larger piece of this village green at its western end, close to where children's play equipment is currently located. As to the acceptability of acquiring this land, all that can be said with any certainty is that the Parish Council, which owns the green, has stated that it would not rule out any proposals put before it.
93. ACSAG contends that this area represents the historic route node of the village and that the Fremington Pill track is an historic right of way which would have been a well-trafficked route in the past. However, as I saw at my site visit it is now an unmade track which crosses a watercourse on an insubstantial bridge and passes along a well-treed route on a relatively narrow alignment. I accept that the 2 trees, subject to a Tree Preservation Order, which would need to be removed to allow the new access to be constructed, have been assessed to be in poor condition and could no doubt be satisfactorily replaced. But it seems to me that a significant number of additional trees, which have a clear public benefit, would also be affected by the suggested new road.
94. Such a route would also introduce more prominent and intrusive street-lighting in this area than the low-level lighting currently proposed for the combined footpath/cycletrack along this route which forms part of the appeal proposal. There are also unanswered questions regarding ecological impact of such a vehicular route; engineering concerns about how it would enter the appeal site, having regard to the prevailing level differences; and potential flooding concerns, as part of the access road lies within the flood plain.
95. Taken together, these points do not persuade me that alternative access arrangements of this form and at this location would be lacking the drawbacks alluded to in the Court of Appeal judgement referred to above. Moreover, it is difficult to see how they could deliver the environmental enhancement along the Fremington Pill frontage of the site sought by Policy FRE2. Finally, although ACSAG criticised the appellant for not investigating further alternative options, such as from the existing roads of Chilpark or St Andrews Road to the west of the appeal site, there is no requirement for an applicant for planning permission to examine alternatives to something which, in its view, is already acceptable.
96. Church parking and land ownership issues. The Revd Hockey, Vicar at St Peter's Church, Fremington, spoke at the inquiry to express his own concerns, and those of the Parochial Church Council, regarding the currently proposed access arrangements. He explained that visitors to either the Church or Church Hall generally tend to access the parking area from Military Road and then leave by means of the exit on the east side of the Hall, but frequently cannot do so because of cars parked in front of them. In these circumstances drivers have to reverse onto Military Road to get back onto Church Hill. It is feared that the proposed access arrangements would at best make this very dangerous and, quite likely, would make it impossible.
97. He indicated that problems are envisaged when funerals or weddings take place, as on these occasions the car park is filled and parking also takes place on Military

Road. There were 28 funerals in 2012, with an average of 10 weddings a year. He expressed particular concern regarding the regular Sunday morning services, where the normal congregation numbers 90-100 people, many of whom are elderly and frail, and who need to have close, convenient parking. It is considered that if the appeal proposal goes ahead, there would be a risk that one quarter to one third of the congregation would stop attending, because of parking difficulties. In addition, the Church Hall is used for various activities and events every day of the week, and there is a real concern that approval of the appeal proposal would mean that some of these bookings would be lost because of parking difficulties and increased problems accessing and exiting the parking area.

98. A further area of concern relates to a small piece of land along the Military Road/ Church car park interface, over which there appears to be a dispute concerning ownership. The appellant maintains that the legal title of the appeal site and Military Road, including the disputed piece of land, is registered in the name of Fremington Developments LLP, whereas ACSAG submitted a letter which, in its view, indicates that the Exeter Diocesan Board of Finance Limited ("EDBF") is the proprietor of the land in question. However, the EDBF has acknowledged that questions regarding the ownership of this land do not prevent the appellant from pursuing the current proposals, and this is therefore not a matter which I need consider further.
99. Moreover, although I appreciate and understand the concerns expressed by Revd Hockey the fact remains that the appeal proposal would not prevent access to or egress from the current parking area, and may even make it easier as both Military Road and the car park exit would be signal controlled. I acknowledge that vehicles queuing to exit Military Road may, at times, impede those wishing to enter or leave the parking area, but I see nothing unusual in drivers having to be accommodating towards one another, as would be required in such circumstances.
100. In addition, it is clear that notwithstanding the fact that parking connected with the Church has taken place on Military Road for at least the last 20 years, Military Road is currently private land so this parking can only take place with the tacit agreement of the landowner. The appellant has agreed that if the development was to proceed, arrangements could be made for Church visitors to use the community parking spaces which would be provided within the development site, and I understand that this would provide up to 33 "overflow" spaces within about a 5 minute walk. The appellant has also pointed out that there are other parking areas within the village which could possibly be used for weddings, funerals and events at the Church Hall, and this was not disputed.
101. In view of the above points, and on the basis of the submitted evidence, I do not consider that the matters raised by Revd Hockey are of such magnitude as to justify the withholding of planning permission.
102. Location of the Multi-Use Games Area ("MUGA"). Mr Gill, a private individual who lives at the Old Barn, located to the north of St Peter's Church, spoke at the inquiry against the positioning of the proposed MUGA. In his written representations he referred to 2 legal authorities<sup>6</sup> to support his view that a glass greenhouse on his side of the Grade II listed wall constituted part of his residence, and because of this he maintained that the MUGA would be sited just 2m-3m from his property.

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<sup>6</sup> Batey v Wakefield [1982] 1 All Er 61 and Lewis v Rook [1992] STC 171

103. As such he argued that it would not only severely impact on the use and enjoyment of the garden, through noise and light pollution, but would also present a physical threat to himself and his family, and buildings, from stray footballs. In particular he saw the greatest threat in this regard being to the listed Gazebo. He asked for consistency in decision making, pointing out that in 2011 the Council's Executive Committee withdrew funding for a similar MUGA proposed to be built at Fremington School, in order to avoid unnecessary noise impact to local residents.
104. I can understand and appreciate these concerns, but dealing first with the proximity of the proposed MUGA to the listed Gazebo I am mindful of the fact that the Council's heritage witness, who considered the implications of this proposal in great detail, raised no objections to this juxtapositioning. Nor did either of the other heritage experts. I therefore do not consider that there is any reasoned, justifiable basis to oppose the location of the MUGA on heritage grounds.
105. Insofar as amenity or living conditions matters are concerned, the Council's Environmental Health Officer ("EHO"), who was consulted on the proposal observed that Sport England's guidance is that it is normally advisable to locate a MUGA (especially one which is floodlit) at least 12m and ideally 30m from residential properties. In this regard the EHO noted that the main dwelling of The Old Barn is located some 50m away from where the MUGA is proposed to be sited and considered that this positioning would be acceptable, subject to the imposition of a condition to regulate the hours of use of any floodlights.
106. Although Mr Gill and the EHO take clearly different views on this matter, I consider it more appropriate to have regard to the physical separation of a MUGA to a main dwelling, rather than to a clearly ancillary building such as a greenhouse. Moreover, I note that a suggested condition regarding the hours of operation of any floodlights associated with the MUGA has been agreed between the Council and the appellant; and have also noted that the appellant's ecological consultants advise that lighting for the MUGA would not significantly affect bat foraging/commuting on the site, nor result in a significant impact to nesting birds.
107. The proposed positioning of the MUGA does not form part of the Council's reasons for refusal of this proposal, and having regard to this, and the points set out above, I am not persuaded that the location of the MUGA would give rise to an unacceptable impact on the living conditions of nearby residents at The Old Barn.
108. Housing land supply. There was no dispute between the parties that the Council does not have a 5 year housing land supply, as is required under the Framework. This was not discussed at any great length at the inquiry, and it is not necessary to go into this matter in detail here. It is sufficient to note that even if the most recent figures in the Council's not yet adopted 2012 Strategic Housing Market Assessment are used, it would only amount to between a 3.5 and 4.1 year supply. This could drop to as low as about a 2.0 year supply if figures from the Regional Strategy were still considered appropriate. These figures were not seriously disputed by the Council. Moreover, the supply of affordable housing was just a single unit in 2011/12, although oral evidence from the Council at the inquiry indicated that 64 affordable units had been provided in 2012/13.
109. But notwithstanding this latter point, it is clear to me that the appeal proposal, which is self-evidently a housing application, has to be considered in the context of the presumption in favour of sustainable development, in accordance with paragraph 49 of the Framework. The provision of some 277 new dwellings, including some 69 affordable units, lends significant weight to the appeal proposal

as it would accord with the social role of sustainable development set out in paragraph 7 of the Framework. This requires the planning system, amongst other things, to support strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations.

110. Planning obligation. Under the terms of an agreement, made under S106 of the Town and Country Planning Act 1990, the appellant would provide not less than 69 affordable housing units, in accordance with an agreed mix and a mechanism which would seek to ensure that they are occupied by local people. The agreement also indicates that the appellant would provide public open space, to include informal open space, a football pitch, a MUGA, a local area for play ("LAP") and a local equipped area for play ("LEAP"). In addition, changing facilities would be provided in one of the buildings to be retained.
111. A number of agreed financial contributions would also be made, towards Primary School education, healthcare, transportation and the conservation area, all of which would be required as a consequence of the development. I consider that the above matters accord with the requirements of Regulation 122 of the Community Infrastructure Levy Regulations and with paragraph 204 of the Framework. They therefore support the appeal proposal and can be taken into account in these appeals.

#### *The planning balance*

112. Summarising all the above points, I have concluded that the appeal proposal would provide safe and suitable access arrangements for all users, and accordingly would comply with the relevant requirements of Local Plan policies FRE2 and TRA6, and with the relevant aspects of the Framework. I have also concluded that there would be no unacceptable impact on the living conditions of nearby residents, and again, that no conflict would arise with Local Plan policies in this regard.
113. There would be less than substantial harm to the significance of heritage assets in the immediate vicinity of the site entrance, but there would also be benefits in heritage terms arising from the on-site improvements to the settings of listed buildings. Overall, in heritage terms, there would be a small adverse impact and, accordingly, a breach of Local Plan Policies ENV16 and ENV17.
114. However, I have already concluded that some aspects of the aforementioned development plan policies are inconsistent with the Framework, such that decisions on these appeals should be taken in accordance with the 2<sup>nd</sup> bullet point of paragraph 14 of the Framework. It is therefore necessary to assess whether the public benefits of the proposal outweigh this small adverse impact in heritage terms and whether any adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, taken as a whole. It is also necessary to consider this proposal for housing in the context of the presumption in favour of sustainable development.
115. Dealing first with the other matters set out above, none of them weigh materially against the proposal, but the provisions which would be secured through the S106 Agreement would count in the proposal's favour and would give rise to clear economic and social benefits. Moreover, as set out both in the Council's Committee Report and the appellants' planning evidence, there are a number of clear public benefits which would arise from this proposal, not least the provision

of 277 new dwellings which would support the social role of sustainable development.

116. Although there was a difference of opinion between the appellant and ACSAG in terms of how many of these dwellings could be provided within a 5 year period, it is clear that a significant number of them would contribute towards the Council's 5 year supply of housing, and I regard this as weighing in the scheme's favour. A further benefit is the fact that these dwellings would include at least 69 affordable units for local people, representing an appreciable 35% of the need in the parish. Clear benefits would also arise from the re-use of a previously developed site in a sustainable location.
117. Further transport benefits would arise through the pedestrian and cycle linkages of the site to the Tarka Trail and Fremington Quay and other benefits would arise through the enhancement of ecological habitat which would be achieved by managing the site in accordance with the Ecological Impact Assessment Report and its Addendum together with an approved Ecological Management Plan, all of which could be secured through the agreed planning conditions.
118. In light of all the matters set out above, it is my assessment that the public benefits of the proposed development would clearly outweigh the small amount of harm which would arise to heritage assets, and that the proposal as a whole would accord with the economic, social and environmental dimensions of sustainable development. There are no adverse impacts of sufficient weight as to significantly and demonstrably outweigh the benefits of the proposal, nor are there any specific policies in the Framework which indicate that development should be restricted. The planning balance is therefore in favour of granting planning permission.

## **Conclusion**

119. In view of all the above points I conclude that Appeal A should be allowed, subject to a number of conditions as set out in the Schedule at the end of this decision. Condition 1 is a standard commencement Condition, whilst Condition 2 details the approved plans, and other documents and is imposed to define the permission and for the avoidance of doubt. Conditions 3 and 26 are needed in order to ensure the proper development of the site, with Condition 4 being needed in order to minimise impacts from construction-related traffic on the environment and on the amenity of residents and businesses. Condition 27 will ensure the safety of users of the adjoining public highway and protect the amenities of adjoining residents during the construction period.
120. Condition 5 aims to ensure that an appropriate record is made of the buildings associated with the former army camp and of any below-ground archaeological evidence; whilst Condition 6 is required to ensure that risks from land contamination to the future users of the land and neighbouring land, controlled waters, property and the ecological system are all minimised, and to ensure that development can be carried out safely.
121. Conditions 7, 8 and 11 are imposed to reduce flood risk to acceptable levels and ensure water quality discharges are not worsened to the Fremington Pill and the Taw Estuary, whilst Condition 14 will ensure that satisfactory drainage arrangements are provided. Conditions 9, 10, 23 and 24 are imposed in order to safeguard the living conditions of residents, with Condition 10 also serving to prevent pollution and Conditions 23 and 24 also serving to reduce light pollution. Conditions 12, 13, 37, 38 and 39 are necessary in order to safeguard the visual

amenity and character of the area, whilst Condition 40 is imposed in the interests of retaining the appearance and character of the Key Buildings.

122. Condition 15 aims to ensure the provision and maintenance of a private amenity area for each dwelling, whilst Condition 16 will ensure that the targets contained in the application submission are achieved. Conditions 17 and 18 are needed to assimilate the development into the landscape and to safeguard the appearance and character of the area, with Condition 19 serving to maintain the ecological site interest and to safeguard and enhance local biodiversity.
123. Conditions 21 and 22 are imposed so that adequate provision is made for children's recreation and to encourage informal recreational use, whilst Condition 20 will ensure that the site edge satisfactorily addresses the agricultural land use beyond. Condition 35 will ensure that the public open space is maintained to maximise the biodiversity of the site. Conditions 25 and 26 are imposed to ensure that adequate information is available for the proper consideration of the detailed proposals, and to ensure the proper development of the site.
124. Condition 28 will ensure the provision of adequate off-street parking for residents, with Conditions 33 and 34 needed to ensure adequate off-street parking facilities are available for visitors to the site, in the interests of highway safety. Condition 29 will safeguard continued access along Military Road for existing users, whilst Condition 30 will ensure that adequate access and associated facilities are available for all traffic attracted to the site. Condition 31 will ensure the retention of these facilities, with Condition 32 ensuring that the access arrangements are completed within a reasonable time. Finally, Condition 36 is needed to ensure that the relevant units are not unreasonably extended or otherwise altered to take them outside of what would be considered as "affordable".
125. I have had regard to all other matters raised, but they are not sufficient to outweigh the considerations which have led me to my conclusion.

### **Reasons and Conclusion – Appeal B**

126. The proposal to demolish all former military buildings at the army camp, with the exception of Building 60 and the Miniature Range Building would leave a largely vacant site. Taken in isolation it would not, in my opinion, preserve or enhance the character or appearance of the Fremington Conservation Area, unless an acceptable development proposal had first been permitted, although it would clearly bring about some improvement to the setting of some listed buildings.
127. However, as set out above, I am satisfied that the proposed development which is the subject of Appeal A would be an appropriate and acceptable scheme for this site, and I note that in such circumstances the Council considers that conservation area consent should not be withheld. I agree, and accordingly allow Appeal B, subject to the standard time condition.

*David Wildsmith*

INSPECTOR

### **Appeal A - Schedule of Conditions (40 in total)**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the plans, reports and other details listed on the Approved Document and Plan List appended to these Conditions ("the approved plans and details").
- 3) No part of the development hereby permitted, other than that provided for in Condition 27 below, shall be commenced until a phasing programme has been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the programme.
- 4) No development shall take place until a Construction Traffic Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Plan shall include:
  - (i) the timetable of the works;
  - (ii) the hours of deliveries;
  - (iii) the hours during which construction vehicles will be present at the site or in its vicinity;
  - (iv) the routing of vehicles to and from the site;
  - (v) any road closures;
  - (vi) the methods of traffic control at the site and/or at any other location if required;
  - (vii) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
  - (viii) the compound/location where all building materials will be stored during the demolition and construction phases;
  - (ix) areas on or near the site where delivery vehicles and construction traffic will load or unload materials with confirmation that no vehicles will park on the County Highway for loading, unloading or waiting for site entry;
  - (x) the means of enclosure of the site during the construction works and any additional enclosures;
  - (xi) details of the use of a dust suppression system on the site in order to damp down/wash areas during any dusty activities;
  - (xii) details of the use of wheel washing/brushing facilities at the site junction onto the main road to prevent mud and other debris from being brought onto the highway.

The Development shall be carried out in strict accordance with the approved Plan.

- 5) No development shall take place until the implementation of a programme of historic building recording and archaeological work has been secured in accordance with a written scheme of investigation which has been submitted to and approved in writing by the planning authority. The development shall be carried out at all times in accordance with the approved scheme. A suitable programme of work would take the following form:
  - (i) an appropriate record of the extant WWII and other military structures;
  - (ii) the excavation of a limited series of evaluative trenches to determine the archaeological interest of the site and the impact of the proposed development upon it. This will investigate the potential for medieval and earlier archaeological deposits being

- present on the site;
- (iii) should archaeological deposits be revealed by (ii) above then further archaeological work may be required. The scope of this work would be determined by the nature and significance of any exposed deposits as well as a consideration of the impact of the proposed development.

The results of the fieldwork and any post-excavation analysis undertaken would need to be presented in a detailed and illustrated report.

- 6) Prior to the commencement of development approved by the planning permission, a scheme to deal with the risks associated with potential contamination of the site shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include all of the following elements:
  - (i) With reference to the Hydrock Ground Investigation Report dated December 2010, a Method Statement based on the results of the desk study and site investigation scheme already undertaken giving full details of the remediation measures required and how and when they are to be undertaken;
  - (ii) A verification report on completion of the works set out in (i) above, confirming the remediation measures that have been undertaken in accordance with the method statement and setting out measures for maintenance, further monitoring and reporting. Any changes to these agreed elements require the express consent of the Local Planning Authority. The remediation scheme shall be implemented in accordance with the approved Method Statement.

In the event that unexpected contamination is found at any time when carrying out the approved development it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

- 7) Before any works start on site the detailed design of the surface water drainage system shall be submitted to and approved in writing by the Local Planning Authority. This system shall be designed to contain the 30 years (30%) storm, and control (via landscaping/exceedance routes) up to the 100 year storm (30%) within the site and will include a management plan for future adoption and maintenance. The scheme shall be implemented as approved, before any of the dwellings hereby approved are first occupied.
- 8) Before any works start on site the detailed design of the exceedance routes to safely route flood waters through the site or to temporary stores in public open space/road areas (away from buildings) will be submitted to and approved in writing by the Local Planning Authority. These exceedance routes shall be constructed as approved before any of the dwellings hereby approved are first occupied.
- 9) During the demolition and construction phase no machinery shall be operated, no process shall be carried out and no deliveries taken at or dispatched from the site outside the following times: Monday – Friday 08.00 – 18.00, Saturday 09.00 – 13.00 nor at any time on Sunday, Bank or Public holidays.



- 10) During the demolition and construction phase no materials or substances shall be burnt/incinerated within the application site.
- 11) During the construction period drainage should be managed in line with C698 "Site Handbook for the Construction of SUDS".
- 12) No work shall commence on the external decoration of any dwelling hereby permitted until samples of the materials (including colour of render, paintwork and colourwash) to be used in the construction of the external surfaces of the dwellings hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details and retained thereafter.
- 13) No work shall commence on the construction of any boundary treatment until samples of the external finish/materials to be used on the boundary treatment hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The approved boundary treatment shall then be provided in accordance with the approved details prior to the occupation of any dwelling and retained thereafter.
- 14) None of the dwellings shall be occupied until works for the disposal of sewage and surface water have been provided on the site to serve the development hereby permitted, in accordance with details submitted to and approved in writing by the Local Planning Authority.
- 15) No dwelling shall be occupied until the means of enclosure and the bin storage area for that dwelling have been provided in accordance with the approved plans and details referred to in Condition 2.
- 16) Following the completion of each phase of development and prior to occupation details, including where appropriate certificates, of the targets for renewable energy and a post construction sustainable build assessment shall be submitted to and approved in writing by the Local Planning Authority.
- 17) All planting, seeding or turfing comprised in the approved details of landscaping associated with each phase of development shall be carried out in accordance with the the phasing programme to be submitted and approved under Condition 3 above. Any trees or plants which within a period of 5 years from their planting die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variations.
- 18) Implementation of approved 'Arboricultural Method Statement' dated April 2012. In this Condition 'retained trees, hedges and shrubs' means an existing tree, hedge or shrub, which is to be retained in accordance with the approved plans and particulars as detailed in Condition 2; and paragraphs (i) and (ii) below shall have effect until the expiration of 5 years from the completion of the applicable phase of development.
  - (i) No retained tree, hedge or shrub shall be cut down, uprooted or destroyed, nor shall any tree, be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the Local Planning Authority. Any topping or lopping approved shall be carried out in accordance with British Standard 3998: 2010 Tree Work – Recommendations;
  - (ii) If any retained tree, hedge or shrub is removed, uprooted or destroyed or dies, another tree, hedge or shrub shall be planted at the same place and that tree shall be of such size and species, and

- shall be planted at such time, as may be specified in writing by the Local Planning Authority;
- (iii) The erection of protective barriers and any other measures identified as necessary for the protection of any retained tree, hedge or shrub shall be undertaken in accordance with the approved plans and particulars before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be retained until all equipment, machinery and surplus materials have been removed from the site, or in accordance with an approved method statement. 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 consent of the Local Planning Authority.
- 19) The development shall be undertaken in accordance with the recommendations for ecological mitigation and habitat creation contained in the Ecological Impact Assessment (EIA) Report dated September 2011, Addendum to EIA Report (Drainage and Bats) dated April 2012, Ecological Management Plan dated April 2012 and Conservation Action Statement dated September 2011.
- 20) In accordance with the phasing programme to be submitted and approved under Condition 3 above, a stock-proof fence shall be provided along the external northern and western site boundaries prior to the commencement of the directly adjoining phases of development. The stock-proof fence shall be retained thereafter.
- 21) Prior to the commencement of development of the children's play areas (LAP and LEAP) details of their layout, surface treatment, fencing, landscaping and of the play equipment to be installed thereon, shall be submitted to and approved in writing by the Local Planning Authority. The respective play areas shall be provided in accordance with the approved details and phased in accordance with the provisions of the Section 106 Agreement and retained thereafter.
- 22) Prior to the commencement of the laying out of the informal open space, the design, layout and position of seats, dog bins and signage within the informal public open space shall be submitted to and agreed in writing by the Local Planning Authority. The seats, dog bins and signage shall be implemented as approved and thereafter retained.
- 23) Details of any external lighting as defined on drawings 300-1 E and 300-2 E, shall be submitted to and approved in writing by the Local Planning Authority in accordance with the phasing programme. This information shall include a layout plan with beam orientation and a schedule of equipment in the design (luminaire type, mounting height, aiming angles and luminaire profiles). The lighting shall be installed, retained and operated in accordance with the approved details.
- 24) The approved floodlights shall only be operated between the hours of 09.00 and 21.00 (Monday to Saturdays) and 09.00 and 18.00 on Sundays, Bank or Public Holidays.
- 25) The proposed estate roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, road maintenance/vehicle overhang margins, embankments, visibility splays, accesses, car parking and street furniture shall be constructed and laid out in accordance with details to be approved by the Local Planning Authority in

writing before their construction begins. For this purpose, plans and sections, indicating, as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.

- 26) The proposed roads, footways, footpaths, verges, visibility splays, junctions, cuttings, embankments, sewers, drains, service routes, car parking/garage spaces, access drives, construction traffic roads, construction staff car parking and construction site compound shall be laid out, constructed and completed in accordance with a detailed programme that is to be submitted to and approved by the Local Planning Authority in writing before any part of the development commences.
- 27) With the exception of site clearance and remediation works, no other part of the development hereby approved shall be commenced until the works contained within the Section 106/278 Agreement and footway provision within the Military Road, have been completed and a site compound and car park have been constructed in accordance with the approved details.
- 28) The garaging and vehicle parking spaces shall be provided and retained thereafter in accordance with the drawings referred to in Condition 2.
- 29) Any materials and equipment required in connection with the works contained within the Section 106/278 Agreement and footway provision within the Military Road shall be stored within the boundary of the existing army camp and not on Military Road.
- 30) The occupation of any dwelling in an agreed phase of the development shall not take place until the following works have been carried out:
  - (i) the spine road and/or 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 with the ironwork set to base course level and the sewers, manholes and service crossings completed;
  - (ii) the spine road and/or cul-de-sac footways and footpaths which provide that dwelling with direct pedestrian routes to an existing highway maintained at public expense have been constructed up to and including base course level;
  - (iii) all visibility splays have been laid out to their final level;
  - (iv) the street lighting for the spine road and/or cul-de-sac and/or footpaths has been erected and commissioned;
  - (v) the car parking and any other vehicular access facility required for the dwelling by this permission have been completed;
  - (vi) the verge, service margin and vehicle crossing on the road frontage of the dwelling have been completed with the highway boundary properly defined;
  - (vii) the street nameplates for the spine road and/or cul-de-sac have been provided and erected.
- 31) When once constructed and provided in accordance with Condition 30 above, the carriageway, vehicle turning head, footways and footpaths shall be maintained free of obstruction to the free movement of vehicular and pedestrian traffic and the street lighting and nameplates maintained.
- 32) Within 12 months of the first occupation of the first dwelling in an agreed phase of the development all roads, footways, footpaths, drainage, statutory undertakers' mains and apparatus, junctions, access, retaining wall and

- visibility splay works associated with that phase shall be wholly completed in accordance with the agreed details.
- 33) Visitor parking spaces shall not be allocated to individual dwellings and shall be maintained free of obstructions to their use, such as chains or bollards, by all occupiers of the estate and their visitors.
  - 34) Any dwelling to be used as a "show house" for sales or demonstration purposes shall be provided with off street parking facilities, in addition to those required by any other condition of this permission, the number and siting to be agreed in writing with the Local Planning Authority and the provision to be made before the first use of the dwelling for that purpose.
  - 35) Prior to the transfer of the public open space and surface water drainage systems to the responsible management party, post development monitoring of the ecological site interest shall be carried out, the results of which shall be submitted to and approved in writing by the Local Planning Authority. The site shall thereafter be managed in accordance with the Ecological Impact Assessment (EIA) Report dated September 2011, Addendum to EIA Report (Drainage and Bats) dated April 2012, Ecological Management Plan dated April 2012 and Conservation Action Statement dated September 2011 and in accordance with any further recommendations resulting from the survey results.
  - 36) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order) express planning permission shall be obtained for any development within classes A and B of Part 1 of Schedule 2 of the Order in respect of the affordable units (plots 17-29, 38-46, 85-90, 132-137, 159-170, 191-201, 261-262, 270-277 shown on drawing number 104M.
  - 37) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and/or re-enacting that Order) no fences, gates or walls shall be erected within the curtilage of the dwellinghouses hereby permitted forward of any wall of the dwellinghouses which fronts onto a road.
  - 38) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and/or re-enacting that Order) no new hard surface or means of access shall be constructed within the curtilage of the dwellinghouses hereby permitted forward of any wall of the dwellinghouses which fronts onto a road.
  - 39) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order) express planning permission shall be obtained for any development within Class D of Part 1 of Schedule 2 of the Order in respect of the following plots 11-13, 50-57, 121-125, 82-84, 147-151, 212-213, 171-180, 250, 259 shown on drawing number 100 Q.
  - 40) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order) express planning permission shall be obtained for any development within classes A-D of Part 1 of Schedule 2 of the Order in respect of the following plots 1, 58, 59, 67, 76, 138, 215, 222, 248, 249, 237 shown on drawing number 100 Q.

**Approved Document and Plan List (as referred to in Condition 2)**

Date	Drawing type	Drawing no.	Author	Doc. Size	No of Pages	B/W or Colour
11/11	Floor plan community facilities proposed hut 60	Hut 60 – proposed	RPS	A3	1	BW
11/11	Elevations community facilities proposed hut 60	Hut 60 – proposed	RPS	A3	1	BW
11/11	Elevations community facilities existing hut 60	Hut 60 - existing	RPS	A3	1	BW
11/11	Photo community facilities rifle store	Comm facility	RPS	A3	1	C
11/11	Pos fence and enclosure details	311A	RPS	A1	1	BW
11/11	Tree pit details	317	RPS	A3	1	BW
11/11	Tree protection plans – in report 05 = pg14/15	D2-37-P6 & P7A	JP	A1	2	C
11/11	Photomontage – CGI folder	1419-PM-03C	WSP	A2	2	C
11/11	Photomontage – in CGI folder (and on email)	1419-PM-02A	WSP	A2	2	C
11/11	Southern footway sections – in TA	1419-RL-200B	WSP	A1	1	BW
11/11	S.E footway/ cycleway/ football pitch - in TA	1419-RP-200B	WSP	A1	1	C
11/11	Northern footway profile – in TA	1419-RL-201A	WSP	A1	1	BW
11/11	Eastern footway link – in TA	1419-RP-201E	WSP	A1	1	C
11/11	Tarka trail footway link – in TA	1419-RP-202D	WSP	A1	1	C
11/11	Eastern footway link – sections – in TA	1419-RP-203A	WSP	A1	1	BW
11/11	Archaeology assessment	FEB 2011	AVON ARCH	A4	23 d/s	C
11/11	Heritage assessment	NOV 2011	GROVER	A4	26 d/s	C
11/11	Ecological impact assessment	SEP 2011	RICHARDS	A4	50 d/s	C
11/11	Landscape and visual impact assessment	OCT 2011	RPS	A4	68 d/s	C
11/11	Arboricultural eastern boundary	NOV 2011	JP	A4	8 d/s	C
11/11	Conservation Action Statement	SEP 2011	RICHARDS	A4	11 d/s	C
11/11	Air quality assessment	OCT 2011	JONES	A4	16 d/s	BW
11/11	Wild life checklist	-		A4	2 d/s	BW
11/11	Employment land and premises	SEP 2011	JLL	A4	8 d/s	C
11/11	Ground investigation	DEC 2010	HYDROCK	A4	71 d/s	C
11/11	Site Waste Management Plan	JUL 2011	CONTRACT OR	A4	23 d/s	BW
11/11	Energy & Renewables Strategy	November 2011	BROOKS DEVLIN	A4	9 d/s	C
11/11	Code for Sustainable Homes Assessment	November 2011	BROOKS DEVLIN	A4	13 d/s	C
25/11	Crime and disorder statement	NOV 2011	ALDER KING	A4	9	C
25/11	Proposals for footway lighting	OCT 2011	WSP	A4	9	C
10/01	Walk distant/ time bus stops (info only)	FIG 1 – Jan 2012	WSP	A3	1	C
10/01	Walk distant/ time bus stops (info only)	FIG 2 – Jan 2012	WSP	A3	1	C
10/01	Walk distant/ time bus stops (info only)	FIG 3 – Jan 2012	WSP	A3	1	C
12/04	Site plan	500-103G	RPS	A3	1	C
12/04	Arboricultural method statement	APR 2012	JP	A4/ A3	A4 -7 d/s A3 -2	C
12/04	Arboricultural constraints report	APR 2012	JP	A4/ A3	A4 – 13 5 –A3	C
12/04	Ecological management plan	APR 2012	EAD	A4/ A3	A4-21	C

12/04	Ecological Impact Assessment – Addendums (dark bat corridors and northern outfall - 11/4/12)	APR 2012	EAD	A4	A3-3 A4 -8 A3-2	C
12/04	Flood risk assessment	MAR 2012	WSP	A4	A4-68	C
12/04	Transport assessment volume 1	APR 2012	WSP	A4	A4-54 (BW) A3-11 (C)	BW/C
12/04	Transport assessment volume 2	APR 2012	WSP	A4/ A3	A4 -166 A3-4	BW
12/04	Heritage impact assessment - addendum	APR 2012	GROVER	A4	A4-15	C
12/04	Community involvement	APR 2012	ALDER KING	A4	A4-19 d/s (C) A4-21 (BW)	BW/C
12/04	Utilities statement	APR 2012	WSP	A4/ A1	A4-15 BW A1-2 (C)	BW/C
12/04	Planning statement	APR 2012	ALDER KING	A4	40	C
12/04	Land registry title plan			A4	1	BW
12/04	Strategic pos 1 of 2	300-1-E	RPS	A0	1	BW
12/04	Strategic pos 2 of 2	300-2-E	RPS	A0	1	BW
12/04	On Plot planting 5 of 7	306B	RPS	A0	1	BW
12/04	Suds pond landscape proposal	312B	RPS	A0	1	BW
12/04	Landscape master plan	300-313A	RPS	A2	1	C
12/04	Eastern boundary pos tree retention plan	314A	RPS	A0	1	BW
12/04	Fences and enclosures – private realm	316A	RPS	A1	1	BW
12/04	Community hub - MUGA buffer zones	318	RPS	A3	1	C
12/04	Muga enclosures and surfacing	320A	RPS	A3	1	C
12/04	Indicative phasing plan	113D	RPS	A1	1	C
12/04	Affordable housing distribution	104M	RPS	A0	1	C
12/04	Adoption plan	1419-LE-01C	WSP	A0	1	C
12/04	Highway preliminary layout	1419-RP-01C	WSP	A0	1	C
12/04	Road longitudinal 1 of 4	1419-RL-01B	WSP	A1	1	BW
12/04	Road longitudinal 2 of 4	1419-RL-02B	WSP	A1	1	BW
12/04	Road longitudinal 3 of 4	1419-RL-03B	WSP	A1	1	BW
12/04	Road longitudinal 4 of 4	1419-RL-04C	WSP	A1	1	BW
12/04	Northern footway profile	1419-RL-201A	WSP	A1	1	BW
12/04	Proposed and existing levels	1419-RP-204C	WSP	A0	1	C
12/04	Proposed levels	1419-RP-205C	WSP	A0	1	C
12/04	Highway layout plan	31419-ATR-1001A	WSP	A0	1	C
12/04	Traffic signals plan / Public Realm Proposals	300-006 B	WSP/RPS	A1	1	C
16/08	Site wide parameters	Rev A	RPS	A3	13	C
16/08	Street Scenes	Rev B	RPS	A3	16	C
16/08	House schedule character area 1	Rev C	RPS	A3	24	C
16/08	House schedule character area 2	Rev C	RPS	A3	85	C
16/08	House schedule character area 3	Rev C	RPS	A3	33	C
16/08	House schedule character area 4	Rev C	RPS	A3	28	C
16/08	Design and assess statement	AUG 2012	RPS	A4	40 d/s	C
16/08	General arrangement plan	1570-GA-105	RPS	A1	1	C
24/08 TA)	Traffic signal plans with swept path	31419-TS-104 B	WSP	A1	1	C

24/08 TA)	Military road swept path	31419-ATR-01 H	WSP	A1	1	C
24/08 TA)	Military road prelim highway layout	31419-PHL-10 H	WSP	A1	1	C
24/08 TA)	Traffic signal plan church hill/ military road	31419-TS-103 H	WSP	A1	1	C
24/08 TA)	Road Safety Audit – Addendum	Aug 2012	WSP	A4	7d/s	C
24/09	House schedule character area 2 supplement	No Rev	RPS	A3	7d/s	C
24/09	Community hub landscape proposals	301E	RPS	A0	1	BW
24/09	Plot planning 1 of 7	302E	RPS	A0	1	BW
24/09	Plot planning 2 of 7	303E	RPS	A0	1	BW
24/09	Plot planning 3 of 7	304E	RPS	A0	1	BW
24/09	Plot planning 4 of 7	305C	RPS	A0	1	BW
24/09	Plot planning 6 of 7	307E	RPS	A0	1	BW
24/09	Plot planning 7 of 7	308E	RPS	A0	1	BW
24/09	Landscape strategy plan	310G	RPS	A0	1	BW
24/09	Fences and enclosures – private realm	315D	RPS	A1	1	BW
24/09	1.2m high timber picket fence	322	RPS	A4	1	BW
24/09	Fences and enclosure key plan	103-D	RPS	A0	1	C
24/09	Location Plan Street Scenes	106-1	RPS	A0	1	C
24/09	Street scene J	106-2	RPS	A0	1	C
24/09	Street scene X	106-3	RPS	A0	1	BW
24/09	Street scene Y	106-4	RPS	A0	1	BW
24/09	Street scene Z	106-5	RPS	A0	1	BW
1/10	Sketches - Looking south to Plot 131	ACH5831 Sketch b	RPS	A3	1	BW
1/10	Sketches - Looking from plot 184	ACH4831 Sketch a	RPS	A3	1	BW
Appeal	Planning Layout	100 Q	RPS	A0	1	BW
Appeal	Housing Schedule	Rev Q	RPS	A4	1	BW
Appeal	Application Form updated	12.12.04	ALDER KING	A4	1	BW
Appeal	Highway Plans pursuant to S38	-	WSP	-	-	C

Note - Some of the above plans are contained within documents as appendices – e.g. some WSP plans are contained within the Transport Assessment Vol 1 Appendix.  
CODES: DS = Double Sided; BW = Black and White; C = Colour

### Appeal B - Schedule of Conditions (a single condition)

- 1) The works for which conservation area consent is hereby granted shall be begun within 3 years from the date of this consent.

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Mr P Wadsley of Counsel instructed by the Solicitor to North Devon District Council

**He called:**

Mr Mark Baker BSc CEng MICE FCIT EurIng Director, Mark Baker Consulting Limited

Mr James Bate Strategic Conservation Officer, North Devon District Council

BSc(Hons) PDD(Arch Conservatory) IHBC  
Mr Graham Townsend Planning Delivery Team Leader, North Devon District Council  
MA(Oxon) DipT&CP

### FOR THE APPELLANT:

Mr J Cahill QC and Mr P Cairnes of Counsel instructed by Mr A Pearce, Alder King

**They called:**

Mr B Hamilton-Baillie MA DipArch DMS Loeb Fellow Managing Director, Hamilton-Baillie Associates Ltd

Mr Ian Awcock CEng Director, Awcock Ward Partnership

MICE MIHT MCIWEM  
Mr Philip Grover Director, Grover Lewis Associates Limited

BA(Hons) BTP  
DipArch(Cons) MRTPI  
IHBC

Mr Alan James Pearce Partner, Alder King Planning Consultants  
BA(Hons) BTP MRTPI

### FOR THE ARMY CAMP SAFE ACCESS GROUP (ACSAG) (RULE 6(6) PARTY)

Mr C Banner of Counsel instructed by PCL Planning Ltd

**He called:**

Mr Paul Lacey BSc DipTE Director, LvW Highways Ltd

CEng MICE FCIHT  
Mr Timothy S Hipwell Independent Road Safety Consultant, Road Safety Audit Ltd

Mrs Nichola Burley MA Director, Heritage Vision Ltd

DipConsArch MRTPI  
IHBC

Mr David Seaton PCL Planning Ltd  
BA(Hons) MRTPI

### INTERESTED PERSONS:

Rev P Hockey Local Vicar  
Mr J Gill Local resident  
Mr R Newing Local resident



**DOCUMENTS SUBMITTED AT THE INQUIRY**

- Doc 1 Opening statement from the appellant
- Doc 2 Opening statement from the Council
- Doc 3 Opening statement from the Army Camp Safe Access Group (ACSAG)
- Doc 4 Statement by Mr Hamilton-Baillie, submitted by the appellant
- Doc 5 Statement from the Revd P Hockey, Vicar of St Peter's Church
- Doc 6 Extract from Manual for Streets 2, submitted by the appellant
- Doc 7 Porlock – Reconciling Place and Movement – report by Hamilton-Baillie Associates Ltd, submitted by the appellant
- Doc 8 Assessment of Net Benefits – Fremington Camp Proposal, prepared by Mr Bate, submitted by the Council
- Doc 9 Extract from Devon Design Guide, submitted by the Council
- Doc 10 Summary of Mr Hamilton-Baillie's qualifications, submitted by the appellant
- Doc 11 Revised Agreed Statement of Common Ground
- Doc 12 Highways Agency DDA Compliance Programme, March 2010, submitted by ACSAG
- Doc 13 Emails relating to the bidding process, submitted by the appellant
- Doc 14 Emails relating to Mr Hamilton-Baillie's appointment, submitted by the appellant
- Doc 15 Extract from Highway Risk and Liability Claims, July 2009, submitted by the appellant
- Doc 16 Extract from The Building Regulations, 2010, submitted by the appellant
- Doc 17 Extract from the London Cycling Design Standards, submitted by ACSAG
- Doc 18 Extracts from the Landscape and Visual Assessment for Fremington Army Camp, submitted by ACSAG
- Doc 19 Indicative route of Eastern Alternative Access, submitted by the appellant
- Doc 20 Extract from the Eastern Boundary Supplementary Arboricultural Information, November 2011, submitted by the appellant
- Doc 21 Bundle of 3 documents from Mr Seaton, submitted by ACSAG
- Doc 22 Letter dated 5 May 2011, relating to Mr Seaton's appointment, submitted by ACSAG
- Doc 23 Letter from G F Mills, dated 25 February 2013, relating to Fremington Dental Practice, submitted by ACSAG
- Doc 24 Details of the background and history of ACSAG, submitted by ACSAG
- Doc 25 North Devon Local Plan Proposals Map, submitted by the appellant
- Doc 26 Extract from the North Devon Local Plan – Policy REC6, submitted by the appellant
- Doc 27 Extract from the Ecological Management Plan, Fremington Army Camp, Barnstaple, April 2012, submitted by the appellant
- Doc 28 Ecological Impact Assessment Report, September 2011, submitted by the appellant
- Doc 29 Letter from TLT LLP dated 15 April 2013, concerning the legal title of the Fremington Army Camp, submitted by the appellant
- Doc 30 Response to DCC Committee Report PTE/12/58 prepared for ACSAG by PCL Transport, submitted by ACSAG
- Doc 31 Map showing the location of the "village green", submitted by ACSAG

- Doc 32 AWP Technical Note – Response to Revd P Hockey, submitted by the appellant
- Doc 33 Notice of Conservation Area Consent dated 28 August 1997, relating to the demolition of buildings at Fremington Service Station, submitted by ACSAG
- Doc 34 Details of the legal title of the Fremington Service Station, submitted by ACSAG
- Docs 35(a-b) Bundle of 2 plans relating to an appeal at Goodleigh Road, Barnstaple, submitted by the Council
- Doc 36 Letter from the Diocese of Exeter, dated 2 May 2013, concerning part of the church car park at St Peter’s Church, Fremington, submitted by ACSAG
- Doc 37 Sheet of amendments to Mr Awcock’s proof, submitted by the appellant
- Doc 38 Plan showing Street Lighting Alterations, Fremington Army Camp Main Road Junction and Military Road, submitted by the appellant
- Doc 39 Letter from North Devon District Council, dated 25 February 2011, concerning a proposed Multi Use Games Area at Fremington Primary School, submitted as part of Mr Gill’s evidence
- Doc 40 Written Statement, submitted by Mr R Newing
- Doc 41 Plan from the Road Safety Audit, submitted by ACSAG
- Doc 42 Tree Preservation Order relating to Fremington Filling Station, 12 January 1973, submitted by the appellant
- Doc 43 Lighting Plan for the Eastern Footway Link, submitted by the appellant
- Doc 44 Proposal for footway lighting for the Eastern Footway Link, prepared by WSP, submitted by the appellant
- Doc 45 Extract from the Equality Act 2010, submitted by ACSAG
- Doc 46 Draft Agreed Conditions
- Doc 47 Letter to Fremington Parish Council, dated 29 October 2011, concerning land at the village green, submitted by ACSAG
- Doc 48 Letter from Fremington Parish Council, dated 1 November 2011, concerning land at the village green, submitted by ACSAG
- Doc 49 Letter from EAD Ecological Consultants dated 11 April 2012, relating to the retention of dark bat corridors at Fremington Army Camp; and Outdoor Lighting Report, submitted by the appellant
- Doc 50 SI 2013 No 935 – The Regional Strategy for the South West (Revocation) Order 2013, submitted by the Council
- Docs 51(a-e) Bundle of 5 appeal and costs decisions, submitted by the appellant
- Docs 52(a-d) Bundle of 4 legal authorities, submitted by the appellant
- Docs 53(a-b) Bundle of 2 legal authorities, submitted by the Council
- Doc 54 Appeal decision APP/U1105/A/12/2180060, submitted by ACSAG
- Doc 55 Legal authority, submitted by ACSAG
- Doc 56 Closing submissions on behalf of ACSAG
- Doc 57 Closing submissions on behalf of the Council
- Doc 58 Closing submissions on behalf of the appellant
- Doc 59 Costs Claim on behalf of the appellant
- Doc 60 Costs decision, submitted by the Council in support of its statement opposing the claim for costs
- Doc 61 Completed S106 Agreement between North Devon District Council, Devon County Council & Fremington Developments LLP