



## Appeal Decision

Hearing held on 29 March 2017

Site visit made on 29 March 2017

**by Olivia Spencer BA BSc DipArch RIBA**

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

**Decision date: 5<sup>th</sup> June 2017**

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### **Appeal Ref: APP/K1128/W/16/3156062 Garden Mill, Derby Road, Kingsbridge**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by h2land against the decision of South Hams District Council.
  - The application Ref 151902, dated 30 April 2015, was refused by notice dated 22 June 2016.
  - The development proposed is a residential development of 32 dwellings.
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### **Decision**

1. The appeal is allowed and planning permission is granted for a residential development of 32 dwellings at Garden Mill, Derby Road, Kingsbridge in accordance with the terms of the application, Ref 151902, dated 30 April 2015, subject to the conditions set out in the attached schedule of conditions.

### **Preliminary matters**

2. The application that led to this appeal was in outline with access, appearance, layout and scale to be considered at this stage and landscaping reserved for later consideration. The appellant confirmed at the hearing that drawing 215/02/A shows an illustrative landscaping scheme.
3. Drawing 215/26A was submitted at the hearing. This drawing shows 2 windows added to the front elevation of dwelling E3. The building would be sited in the centre of the site, away from existing dwellings and I consider no party's interests would therefore be prejudiced by my accepting this small change as an amendment to the proposal.
4. Following the close of the hearing 2no. section 106 unilateral undertakings to provide for a) 4no. affordable dwellings and a Landscape and Ecology Management Plan and open space works and b) 5no. affordable dwellings and a Landscape and Ecology Management Plan and open space works were submitted by the appellant. I consider these below.

### **Application for costs**

5. An application for costs was made by h2land against South Hams District Council. This application is the subject of a separate Decision.
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## **Main Issues**

6. The main issues are:

- the effect of the proposal on the setting of Buttville House which is listed grade II
- whether the proposed development is well designed
- whether the proposal would make adequate provision for affordable housing, education and open space facilities
- the effect on the South Devon Area of Outstanding Natural Beauty.

## **Reasons**

### *Setting of Buttville House*

7. Buttville House is an early 19<sup>th</sup> century 2 storey villa. It has a veranda running across the front south facing side of the house that wraps around the building and continues along the west garden elevation. The two elevations are similar in scale suggesting no hierarchy or significant differentiation between them. Rather the house is designed to sit within and to open to the garden that surrounds it, and to provide occupiers with the enjoyment of views beyond, in particular to the estuary to the west. To the south, views are constrained by the rise of the land and the mature vegetation along the narrow Derby Road, which in large part retains the character and appearance of a country lane. The relationship of the house to its garden and surroundings contributes to its heritage significance and special architectural interest.
8. The appeal site lies to the south-west of the listed building, separated from the house and its garden by Derby Road. The steeply rising ground is enclosed by vegetation and trees along the edge of Derby Road, and by a bank and vegetation along the lane as it turns south up the slope to the Rugby Club. Whilst landscaping is a reserved matter, the appellant has made clear their intention to retain and supplement the trees and vegetation at the north-east corner of the site closest to the listed building, and also the vegetation along much of the Derby Road site frontage. The entrance to the development would be at the western end with the access road running behind and at a lesser incline than the Derby Road boundary. With retained and enhanced planting along the site boundaries even in the winter months, from the house and verandas, glimpsed views only would be available through the vegetation to the gable end of terrace A, a large part of which would in any event sit below the level of Derby Road.
9. From the northern end of the west facing veranda and moving from the house into the garden to the west, more of the site comes into view. The character of the site would change from that of an open agricultural field to an area of housing with access roads, parking, vehicles and domestic paraphernalia. However, although views of the site from the garden of Buttville House is less enclosed at present by vegetation than at the point closer to the listed building, Derby Road would retain its essentially rural character and thus the immediate setting of the house and garden would be little changed.
10. Terrace B would be at some distance beyond the large trees adjacent to the footpath in the centre of the site and thus have little if any visual impact when

seen from Buttville House. Closer to Derby Road the proposed houses would be set into the steep slope of the field. They would have planted green roofs and, whilst landscaping is a reserved matter, the appellant confirmed at the hearing that the intention was to have no boundary fences enclosing the plots. Further drawings submitted during the course of the appeal indicate that retaining walls could be planted and greened. If developed in this way, this part of the site would have a relatively open and verdant character.

11. The changes to the landscape would thus be confined to the south beyond Derby Road and, although altered, the outlook from the house and garden would retain a sylvan character. The roofs of terrace A would impinge on views of Buttville House from the footpath that transects the site, but due to the siting of the terrace below Derby Road they would not appear to dominate it. The house would be clearly evident beyond the proposed dwellings and would be seen to sit within its garden beyond the trees and vegetation lining the lane. Consequently I consider the relationship of the listed building to its gardens and surroundings would not be harmfully eroded.
12. I conclude therefore that, subject to an effective landscaping scheme, the proposed development would preserve the setting of the listed building and its heritage significance. As such I find no conflict with Policy DP6 of the Development Policies Development Plan Document 2010 (DPD) which requires that development should preserve the quality of the historic environment.

#### *Design*

13. The appeal site forms part of allocated site K4 that also includes the Garden Mill industrial estate and Buttville House. The allocation provides for 50 dwellings for the site as a whole.
14. The Council's desire for an overall strategy for development of K4 is understandable. However the policy requirement for a masterplan was revoked in 2013 and I understand that land within K4 is in multiple ownerships, making a fully co-ordinated approach difficult. Derby Road separates the appeal site from the industrial estate and provides access to both these parts of the allocated site. This would remain as now and I have been presented with no evidence to indicate that the appeal scheme would inhibit or prevent future development of dwellings alongside employment uses on land to the north of Derby Road. The absence of an allocated site wide development strategy is not therefore a reason to resist the proposed development and on the evidence before me there is no basis on which to conclude that the proposal would prejudice development of K4 as a whole.
15. The Council acknowledges that the steeply sloping nature of the appeal site makes it challenging to develop and that the route of the access road is inevitably determined largely by the need to provide an acceptable gradient. The appeal scheme proposes a mix of low density green roofed houses in the centre of the site, 2no. considerably higher density terraces of dwellings, and at the top of the slope an informal line of detached houses, all served by an access road that would zig-zag up the slope.
16. Whilst the type D and E houses would have a relatively large footprint, their low density and green roofed form together with the suggested unenclosed nature of the plots, would provide the opportunity to retain a considerable degree of apparent openness at the centre of the site which would assist in

- softening the impact of the development on the landscape. Their informal layout would not be inconsistent with this, or with the meandering nature of the access road.
17. The application drawings indicate that the type D and E houses would be clad in timber. I agree with the Council that, in combination with the steep roofs, this would give them something of a Swiss chalet look. It was agreed at the hearing however that cladding materials could be subject to control by a planning condition. I consider this would be effective in ensuring use of an external finish that is more consistent with the local character.
  18. Some elevations of the type D and E houses have been designed with no or only small windows. Their relationship to the public street would however be different to that of a conventional urban or suburban house. The slope of the site would mean that parts of the walls would in effect be concealed by the landform and that the dominant feature of these buildings from many aspects would not be their vertical facades but their roofs. I do not share the Council's concern therefore that the buildings generally would lack legibility or a 'presence'. That said, I acknowledge that the tall front elevation of type E3, which was originally designed with no openings other than garage doors, would present a particularly austere and blank face to the street. However, drawing 215/26A submitted at the hearing shows an amended type E3 proposal with two windows above the garage doors and this is sufficient to provide some life and articulation to this façade.
  19. The steep nature of the site makes it inevitable that opportunities to create easily usable private garden space other than at the very top of the slope is extremely limited. Enclosing the space around the green roofed houses would provide, with such steep ground, little useable garden for these dwellings and undermine the setting of the houses on the open verdant slope. Given the spacing of these houses, the relatively generous extent of internal space and the roof terraces of the type D houses, the lack of private garden space would not significantly detract from the quality of the living accommodation.
  20. The terrace of houses in the north-east of the site would, in contrast to the green roofed houses, be tall and relatively narrow. 3 storeys with accommodation in the roof would face the access road, with only the upper floor and roof rising above ground level to the rear. Here too the topography of the site places a considerable constraint on the provision of useful outside private space. All of the dwellings in this terrace would nevertheless have a small but useable garden to the rear. Some trees along the lane edge could be removed without harming the overall sylvan character of this part of the site (a matter agreed by the Council's landscape officer), and despite the rise of the bank behind them these could be pleasant sitting out spaces.
  21. Apparent inconsistencies in the representation of car parking to be provided at the front and partially under the overhang of the first floor of the type A houses was examined at the hearing. Clarification was provided that the overlap of the building line was not shown on the block plan and this was agreed by the Council. As a result I consider concerns that parked cars may overhang the highway are not well founded. It is nevertheless the case that with parking spaces at just 5 metres wide, access to the entrance to the building when 2 cars are parked would not be generous. It is not however unusual for this style

- of house which is compact and vertical, and where living areas are located at upper levels with the ground floor given over to utility and access.
22. Terrace B comprises smaller 2 bed houses with 2 storey street frontages and accommodation in the roof. The street form and proportions of the units are thus more traditional. As with terrace A, rear garden provision would be limited to a small area of levelled ground to the rear at high level. For these units that area would be just some 2.5 to 4 metres in depth, with one unit having no rear garden at all. This is an arrangement found more typically in suburban mews developments. However in this instance, windows from the first floor lounge and bedrooms above would give generous views across the scout hut land providing a pleasing and unenclosed outlook. The Council gave no reason for refusal in regard to residential amenity and I consider there would be no undue harm in this respect. With regard to effect on the character and appearance of the area, I consider this modest terrace would appear to nestle comfortably into the hillside in much the same way as others within Kingsbridge.
23. The 4 bedroom detached houses along the southern edge of the site at the top of the slope would have patio doors and a balcony at 2<sup>nd</sup> floor level within the front facing gable. That this feature is located at the top of the buildings is a reflection of the design response to the steep slope whereby the lounge would be located on the upper most floors, and is consistent with the design approach of terrace A. Not only would it thus provide some coherence across the development but in both cases it would provide a legible expression of the buildings response to the land form. The strongly asymmetrical roof form, though unconventional, would be viewed principally from front and rear aspects merely as a simple roof slope in proportion with the very differing scales of each of these elevations.
24. The mix of these house types on a relatively small site is unconventional and there is a wide disparity between the low density of the green roof houses and the very high density of the terraces. There is no evidence to suggest however that the design of the lower density housing has impacted on the quality of the design and layout of other parts of the site. Rather the design overall appears to respond principally to the slope, but also to adjoining development including the setting of Buttville House (considered above) and the nature and layout of the existing houses to the south. I have found nothing intrinsically poor in the design of the various elements and I conclude the scheme as a whole would express a clear design strategy and an overall legible coherence.
25. I find no conflict therefore with DPD Policy DP1 which requires all development to display high quality design or with paragraphs 56, 61 and 64 of the National Planning Policy Framework which promote good design as a key aspect of sustainable development.

#### *Affordable housing*

26. The South Hams Local Development Framework Core Strategy (CS) Policy CS6 states that new residential development should provide affordable housing consistent with an overall strategic target of 50% having regard to a number of criteria including the characteristics of the site and the economics of provision. DPD Policies AH1 and AH2 set a target of 55% provision on allocated sites in area centres such as Kingsbridge and require that as much affordable housing as is viable is provided. The appeal site forms part of allocated site K4.

27. It is noted in the officer's report and set out in the agreed Viability Statement of Common Ground<sup>1</sup> that the appellant provided a Viability Assessment to the Council during the application process, and that an independent Viability Appraisal was carried out for the Council. Following this an increase from 3 to 4 affordable dwellings, equating to 12.5% provision, was agreed and the application recommended for approval on that basis.
28. Notwithstanding this and having refused planning permission it is the Council's position that the land value of £985,000 used in both the appellant's and the Council's appraisal is too high. No issue is raised in respect of build costs or other inputs into the appraisal. Whilst it is agreed that the Council's Viability Assessor raised no issues or concerns with the land value put forward by the appellant, this is the single issue on which the Council's case in respect of viability relies. Clearly a lower land value would provide for a greater number of affordable housing units.
29. The Planning Practice Guidance (PPG) states that: *The most appropriate way to assess land or site value will vary from case to case but there are common principles which should be reflected. In all cases, land or site value should: reflect policy requirements and planning obligations ... provide a competitive return to willing developers and land owners ... (and) be informed by comparable, market-based evidence wherever possible. Where transacted bids are significantly above the market norm, they should not be used as part of the exercise.*
30. The Council acknowledge that the steepness of the site means that it will have abnormal development costs and that the full affordable housing requirement is not therefore expected. 30% is generally accepted by the Council as a more realistic figure and they would accept something in this region. It is claimed that other sites in the District have come forward with a 30% affordable housing contribution although no details of such schemes were provided. At the hearing the Council referred to sites where this was the case but could not confirm whether the site conditions were similar to those of the appeal site.
31. The appellant submitted details of 4 sites in the area<sup>2</sup>. Of these one, a site at Stoke Gabriel, is recorded as providing 30% affordable housing. The appellant was advised that the market value of the site was £2.4 million giving a price per plot of £45,000. Details of a site at Dartington indicate a price per plot of £65,500 on a development providing 20.64% affordable housing and s106 contributions of £166,721. Against these comparators, a valuation of £985,000 for the appeal site and a resulting plot value (32 dwellings) of £30,781 does not appear high despite not allowing for either a policy compliant level of affordable housing provision, or the lower figure of 30%. The Stoke Gabriel site, as pointed out by the Council, is flatter. It is not unreasonable therefore to assume that the significantly lower valuation for the appeal land reflects, at least in part, the steepness of the site and resulting costs of this.
32. The appellant has also drawn a comparison in terms of land value as a percentage of gross development value (GDV) with a site at Stoke Fleming. In that case this is recorded as 28%. Whilst it may be the case that percentage of GDV is not mentioned in the RICS guide, when compared with the 9% site

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<sup>1</sup> Doc 5

<sup>2</sup> Doc 1

- value as a percentage of total scheme value recorded in the Council's Viability Appraisal of the appeal proposal, the appeal scheme figure looks modest.
33. Whilst it was accepted by the Council at the hearing that as an allocated site an alternative use value as simply agricultural land would not be appropriate, no evidence was submitted to support the assertion that £400,000 would be a significant uplift on agricultural value that would result in a reasonable landowner willing to sell. Indeed the market comparisons submitted by the appellant suggest that the £985,000 valuation figure for this site is relatively modest. The Council is right to state, in accordance with the guidance in the PPG, that land value should reflect policy requirements and planning obligations. From the limited evidence before me however there is no indication that the housing land market in the area generally is failing to reflect this since both the Stoke Gabriel and Dartington developments are making affordable housing contributions.
34. The Council relies 'in summary'<sup>3</sup> on the last time the land was sold some 3 years ago when it achieved a price of £800,000 and on this basis estimates a value now of £860,000. At this value the Council considers the development would be viable with 5 affordable units. However the figure is not supported by market based evidence as advised by the PPG, and indeed lies significantly below the value of other local sites drawn to my attention. The weight I give to it is therefore limited and I cannot reasonably rely on it to conclude that it would provide a competitive return to a willing landowner and developer.
35. The appeal site is acknowledged to have significant constraints as a result of the topography, and CS Policy CS6 is clear in stating that the level of provision should have appropriate regard to the characteristics of the site and the economics of provision. In the absence of any robust evidence to the contrary, I conclude the appeal scheme as proposed including 4no. affordable units, would meet the requirements of this Policy as well as the viability requirements of DPD Policies AH1 and AH2. The appellant has submitted a section 106 unilateral undertaking to provide the 4no. affordable dwellings. For the reasons given I consider this is necessary to make the development acceptable in planning terms and that it would be fairly and reasonably related in scale to the development. Accordingly I have taken it into consideration in coming to my decision.
36. In addition the appellant has submitted a s106 unilateral undertaking to provide 5no. affordable dwellings but has stated that the development would not be viable if all these units were provided. In view of my conclusion above I consider this would go beyond what is necessary to make the development acceptable in planning terms and would not be fairly and reasonably related in scale to the development. I have not therefore taken this planning obligation into account in coming to my decision.
37. The proposed development would include significant areas of open space, and existing and new vegetation. These are important to the setting of the listed building, significant contributors to the character and appearance of the area and provide existing and potential wildlife habitats. Provision for the submission and approval of a landscape and ecological management plan, including an open space specification, and the maintenance and management of the land thereafter in accordance with the approved scheme is made in the

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<sup>3</sup> Council's appeal statement

submitted planning obligations. I consider such provision is therefore necessary and directly related to the development, and this too I have taken into account in coming to my decision.

*Education and open space facilities*

38. The Council is seeking an education contribution of £87,556.80 and an Open Space contribution of £29,260. No provision is made for either of these within the submitted planning obligations. However, whilst I understand that the nearest secondary school is at capacity, the Council was unable to identify what any sums collected would be spent on. Further, whilst acknowledging that there are a number of consented schemes in the area and that these would be likely to make contributions towards school facilities, it was unable to confirm whether or not these would exceed the pooling restrictions set out in regulation 123 of the Community Infrastructure Levy Regulations.
39. With regard to open space provision, a financial contribution towards the increase or improvement of the sports facilities at the Recreation Ground is sought. The figure requested is based on £380 per resident. However the officer's report notes that recreational facilities are in place and equipped to a reasonable extent at present. My observations at the site visit confirmed this. Further no evidence has been submitted to indicate what effect the additional residents would have on these or how the monies sought would be used to meet any additional burden placed on the facilities. On the evidence before me I consider such a contribution would thus fail to meet the tests of being necessary to make the development acceptable in planning terms or be fairly and reasonably related in scale and kind to the development.
40. I conclude a failure to provide an undertaking to make these contributions does not therefore in this case weigh against the proposal.

*Area of Outstanding Natural Beauty*

41. The appeal site lies within the South Devon Area of Outstanding Natural Beauty (AONB) and within Devon Character Area 49 – Salcombe to Kingsbridge Estuary. Areas of Outstanding Natural Beauty have the highest status of protection in relation to landscape and scenic beauty. The proposed development would introduce houses, roads, traffic, retaining walls and domestic planting into what is now a field of pasture. Those using the footpath that transects the site would no longer experience passing through an open agricultural field. The development would thus deplete the rural and agricultural character and appearance of the site.
42. However, the site immediately adjoins the edge of Kingsbridge, occupies a steep slope running down to the industrial estate to the north, is enclosed by housing at the top of the slope to the south, and is adjacent to the scout hut and public park to the west. The topography severely limits views into and out of the site to the east, as do the banks and mature vegetation along the lane running up to the Rugby Club.
43. The appellant has indicated their intention to retain and supplement boundary vegetation, and retain mature trees at the centre of the site. The submitted drawings illustrate this and such a scheme could be secured at reserved matters stage. The detached houses along the southern edge of the site would be cut into the slope and adjoin existing development that lies above the site



on the ridge. Terrace A would be set low into the slope of the hill and Terrace B would run across the slope between the scout hut and the existing houses to the south. The visible impact of these buildings would thus be limited. For users of the footpath the most noticeable features of the proposal would be the access road, retaining walls and the green roofed houses. Whilst these would be alien features in a rural landscape, in the context of the adjoining urban development they would not be obtrusive. Indeed the central part of the site has the potential (as illustrated) to retain a considerable amount of unenclosed green space between the houses, with the planted roofs adding to the verdant character of the space. From the footpath crossing the site, from Derby Road and from the public park the appearance of the site would change but visible alterations to its character would thus be limited.

44. The appellant has provided photographed views of the site from a number of points within and beyond Kingsbridge. The Council confirmed at the hearing that these were a reasonable and comprehensive set of viewpoints. I visited all of them. From Rack Park Road and Coronation Road on the opposite side of the valley (appellant's viewpoints P, Q, S and R) the site is seen beyond housing in the foreground, with housing at the top of the slope defining the southern boundary. With the exception of the 2 short terraces, the density of development on the site would be relatively low, the houses along the southern edge would sit in close proximity to the existing houses and those with green roofs set into the slope in the centre of the site would have a lesser visual impact in distant views. From these points the proposed development would be seen in the context of the surrounding development and not therefore as an intrusion into the rural landscape.
45. From the centre of the town there are very few places where any view of the site can be gained. From part of Ropewalk the site can be glimpsed between roadside buildings where it is seen to occupy the side of the valley stretching away from the estuary. In these views vegetation dominates, apparently isolating the site from surrounding development whilst also screening it to a significant degree. The distance and amount of vegetation is such that its impact on the landscape setting of the town in these views would be negligible.
46. Viewpoints F, G and H offer high level views of the town from Redford Way and Higher Union Road that include, in the far distance, the appeal site. From here it is visible as a finger of land in the otherwise developed extent of the town. The proposal would infill the area. However, the boundary vegetation could be retained and supplemented and its impact thus softened. Further at this distance and given the apparently enveloping extent of existing development, the proposal would make no significant difference to the perceived nature and extent of the landscape setting of the town.
47. Five viewpoints were identified on the A379 Plymouth Road to the north-west of the town. The road has no footways but the submitted photographs indicate that drivers and passengers travelling south on the road would have views at these points of parts of Kingsbridge and the landscape beyond it, including the appeal site. However, the photographs freeze what in reality is experienced by travellers as quite rapidly passing views of the landscape. Development on this relatively small site, seen in passing views and in the context of the existing housing which adjoins it, would have little if any perceptible effect on viewers' understanding of the nature and beauty of the landscape.

48. Consequently my observations from the agreed viewpoints do not lead me to share the opinion of the Council that there exist widespread views of the site from Kingsbridge or the surrounding countryside and I do not consider that it is particularly sensitive in this regard. The site is visually contained, lies immediately adjacent to existing development and in this context I consider a development of 32 dwellings, retaining walls and associated infrastructure would not amount to major development in the AONB. Paragraph 116 of the National Planning Policy Framework (the Framework) is not therefore engaged.
49. Nevertheless for the reasons given I conclude that the proposed development would have a harmful impact on the landscape and scenic beauty of the site contrary to DPD Policy DP2 which requires development to conserve or enhance the landscape character. Beyond the site boundaries any harmful effect on the AONB landscape would at worst be negligible. Whilst, in accordance with paragraph 115 of the Framework I give great weight to conserving landscape and scenic beauty in the AONB, the harm in this instance though present would thus be very limited.

*Other considerations*

*Living conditions of occupiers of Buttville House*

50. A balcony would run across the front of Terrace A at 2<sup>nd</sup> floor level. However due to the siting of this terrace on land below the level of Derby Road the balcony would not give high level views towards Buttville House. Indeed as shown on drawing 215/06 revision A, at its north eastern end it would be little higher than the adjacent retaining wall. Given this, the distance of some 34 metres to Buttville House and the angle of the terrace in relation to the listed building, the potential for overlooking of the house or garden of Buttville House from the Terrace A properties would be very limited and not sufficient to amount to a harmful loss of privacy.
51. For the same reasons relatively little of the terrace would be seen above Derby Road and the roadside bank from Buttville House. Whilst I note the concerns expressed with regard to the loss of trees in group G4, there has been no suggestion that the trees in the north east corner of the site would be lost. Landscaping is a reserved matter and the retention and/or replacement of boundary vegetation would be subject to control by submission and approval of a scheme. Houses in the centre of the site would be low, cut into the slope with planted roofs. Terrace B and the detached houses at the top of the slope would have a more vertical form, but would be considerably further from Buttville House than others on the site. Whilst the appearance of the site would be altered, no part of the development would therefore be experienced by occupiers of Buttville House as dominant or overbearing from either the house or garden.
52. At its point nearest to Buttville House the proposed access road would run below the level of Derby Road and thereafter move further away as it wound its way up the slope between the houses. Given this initial containment and subsequent distance from Buttville House, headlights and engine noise from vehicles using the road would not result in occupiers of this dwelling experiencing unreasonable noise and disturbance. Overly bright street lighting can be controlled by condition. I conclude that there would thus be no significant detrimental effect on the living conditions of occupiers of Buttville House.

53. Representations were made to the effect that the rights of the occupiers of Buttville House under the Human Rights Act 1998, Articles 1 and 8 would be violated if the appeal were allowed. I do not consider this argument to be well-founded because I have found that the proposed development would not cause unacceptable harm to the living conditions of the occupiers of Buttville House. The degree of interference that would be caused would be insufficient to give rise to a violation of rights under Articles 1 and 8.

#### *Safety and flooding in Derby Road*

54. Derby Road is a narrow lane and as such is typical of the area. Footways are intermittent and for most of its length pedestrians walk in the road, sharing it with vehicles. The no-through road currently provides access to Buttville House, the industrial estate and the Rugby Club. The nature of the road slows traffic and the injury data records no personal injury accidents on Derby Road in the period 2011 – 2013. The increase in the number of vehicles using the road would be modest and I noted at my site visit that the proposed site access would have adequate visibility in both directions. I have no reason therefore to disagree with the view of the professional highway officers that, subject to conditions, no objections are raised on highway grounds.
55. Flooding has occurred around the head of the estuary in the centre of Kingsbridge in recent times and flooding observed in Derby Road which lies within Flood Zone 3. I note also that the Recreation Ground has flooded. The proposed housing would however be within Flood Zone 1. Further the Council has suggested conditions requiring submission, approval and long term maintenance of schemes for the management of surface water run-off from the site during construction and thereafter designed to a 1:100 year flood event plus 40%. These would ensure that the development would not add to local flooding. The officer's report notes that allocation of the site was made with full knowledge of the flood risk in Derby Road and that subject to conditions the County Drainage Engineers raise no objection to the proposal. On the evidence before me, I have no reason to disagree with their conclusions.

#### **Conditions**

56. A condition specifying the scheme drawings is necessary for certainty. Approval of detailed planting schemes as part of the reserved matters and an Arboricultural methodology statement is necessary to ensure the character and appearance of the site is protected. A Landscape and Ecological Management Plan is subject to the submitted planning obligations and a planning condition requiring this is not therefore necessary. However, given the visual sensitivity of the site and the characteristics of the topography it is necessary to withdraw permitted development rights for extensions, structures and minor operations. For the same reasons I have also imposed a condition requiring approval of external materials.
57. Access into and through the site is acknowledged as a difficult and complex aspect of the development and pre-commencement approval of details of this together with parking and turning facilities is necessary to ensure these would be provided in an appropriate and safe manner. Approval of an external lighting scheme will ensure the character of the area is protected and minimum disturbance to wildlife habitats.

58. A condition preventing openings in the north facing gable wall of terrace A will ensure the privacy of occupiers of Buttville House is protected. To protect local residents from undue disturbance during the construction period the approval and implementation of a Construction Management Plan is necessary.
59. The site is steep and control of surface water drainage is necessary to protect surrounding land. Whilst no contamination of the site has so far been identified, a condition requiring approval of any necessary remediation will ensure the health and wellbeing of future residents is protected.
60. Where necessary I have amended the wording of suggested conditions to avoid repetition and to aid clarity.

### **Planning balance and conclusion**

61. The appeal site does not form part of any proposed allocation in the emerging Local Plan and it has been suggested that this indicates it is unsuitable in planning terms. However, the Council acknowledges that the emerging plan is at an early stage on its route to adoption and thus very little weight can be given to this. Rather the situation is that the site forms part of allocated site K4 in the current Development Plan and the Council has confirmed that the proposal complies with this Policy. I have found no prejudice to delivery of the rest of the allocation as a result of the appeal scheme. The Council stated in the hearing that it can demonstrate less than a 2 year supply of deliverable housing sites and whilst the proposed development would deliver less than the policy target level of affordable homes it would nevertheless accord with the relevant policies and make a valuable contribution towards meeting the need for such dwellings. Given the extent of the shortfall I give this benefit considerable weight.
62. The setting of the adjacent listed building would be preserved and I have found no significant harm in terms of design quality or the effect on the interests of 3<sup>rd</sup> parties. In all these respects the proposal would accord with Development Plan policy. Whilst I give great weight to the protection of the AONB, given the limited extent of the harm and the plan allocation of the site for development, I conclude that the considerable benefit of the provision of housing is sufficient in this instance to outweigh that harm. The appeal should therefore succeed.

*Olivia Spencer*

INSPECTOR

## APPEARANCES

### FOR THE APPELLANT:

Neil Pearce	Avon Planning Services
Mark Donald	h2land
Chris Hughes	h2land

### FOR THE LOCAL PLANNING AUTHORITY:

Wendy Ormsby BSc MSc	Senior Specialist
Joe McCarthy	Development Viability Team, Plymouth City Council
Becky Fowlds	Council Solicitor

### INTERESTED PERSONS:

Mark Evans MA BA(Hons) DipUD MTPI	Mark Evans Planning Ltd
Cllr Rufus Gilbert	District Councillor
Cllr Judy Pearce	District Councillor
Alan Kirk	Local resident
Leslie Pengelly	Local resident

### DOCUMENTS SUBMITTED AT THE HEARING

- 1 Local site valuations submitted by the appellant
- 2 Section drawings 215/04B and 215/05A
- 3 Red line site plan with additional context
- 4 Amended drawing 215/26A
- 5 Agreed supplementary statement of common ground – viability
- 6 Suggested landscaping and ecology conditions submitted by the appellant
- 7 Email from Becky Fowlds to Wendy Ormsby 28 March 2017 submitted by the appellant
- 8 Policies Map – emerging local plan

### DOCUMENTS SUBMITTED AFTER THE CLOSE OF THE HEARING

- 9 Unilateral undertaking – 4no. affordable dwellings
- 10 Unilateral undertaking – 5no. affordable dwellings

**Schedule of conditions:**

- 1) Details of the landscaping, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) Details of landscaping required by condition 1) shall include walls, fences and other means of enclosure, indications of all existing trees and hedgerows on the land identifying those to be retained, the location of all open space and amenity areas, the landscape treatment of embankments and retaining walls, and a programme for the carrying out of the landscaping works.
- 5) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in accordance with the agreed programme; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 6) No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees shall be carried out as approved.  
[In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars.]
- 7) The development hereby permitted shall be carried out in accordance with the following approved plans: 215/06A, 215/11, 215/08, 215/09, 215/10, 215/29, 215/30, 215/31, 215/28, 215/13, 215/33, 215/12, 215/15, 215/14, 215/32, 215/34, 215/07A, 215/01A, 215/02A, 215/03A, 215/04B, 215/05A, 215/102A, 215/201, 215/17, 215/16, 215/19, 215/18, 215/21, 215/20, 215/22, 215/23, 215/24, 215/25, 215/26A, 215/27, 215/35, 215/101A, 215/103A.
- 8) Notwithstanding condition 7) the construction of the external walls of the dwellings hereby approved shall not commence until details and samples of the materials to be used on the external elevations of the dwellings 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.

- 9) Development shall not take place until details of the parking and turning areas within the site have been submitted to and approved in writing by the local planning authority; parking space shall be provided in accordance with the approved details for cars to be parked and for vehicles to turn prior to the occupation of the dwelling to which the parking and turning area relates.
- 10) Development shall not take place until details of the junction between the proposed access road and the highway shall have been submitted to and approved in writing by the local planning authority; and no dwelling shall be occupied until that junction has been constructed in accordance with the approved details. The junction shall thereafter be retained.
- 11) Development shall not take place until details of the access road through the site including roads, footpaths, streetlighting and retaining walls have been submitted to and approved in writing by the local planning authority. These details shall include plans and sections indicating the layout, levels and gradients, materials and methods of construction. The development shall be carried out in accordance with the approved details.
- 12) Details of any external lighting shall be submitted to and approved in writing by the local planning authority before any of the buildings are occupied. Any external lighting shall be designed to comply with lighting levels as set out in the Institute of Lighting Professionals' guidance: Guidance Notes for the reduction of obtrusive light; and shall be compliant with Environmental Zone 3. Development shall be carried out in accordance with the approved details.
- 13) No site clearance, preparatory work or development shall take place, until a Construction Management Plan has been submitted to, and approved in writing by the local planning authority. The Plan shall provide for:
  - i) the parking of vehicles of site operatives and visitors;
  - ii) the management of delivery vehicle numbers and routes
  - iii) loading and unloading of plant and materials;
  - iv) storage of plant and materials used in constructing the development;
  - v) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
  - vi) wheel washing facilities;
  - vii) photographic evidence of the condition of the adjacent public highway prior to commencement of any work;
  - viii) measures to control surface water run-off from the site during construction;
  - ix) delivery, demolition and construction working hours.The approved Construction Management Plan shall be adhered to throughout the construction period for the development.
- 14) No building hereby permitted shall be occupied until surface water drainage works shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. The submitted details shall:

- i) include percolation test results and supporting calculations, prepared in accordance with BRE 365 and designed to a 1:100 year flood event + 40%, the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
  - ii) include a timetable for its implementation; and,
  - iii) provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 15) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows shall be constructed on the north facing end gable wall of terrace A.
- 16) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development of the types described in Schedule 2, Part 1, Classes A – H of the Order, including extensions, porches, garages and car ports, the stationing of huts, fences or other structures and Part 2, Minor Operations, shall be carried out other than those expressly authorised by this permission.
- 17) Any contamination that is found during the course of construction of the approved development shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development or relevant phase of development is resumed or continued, and a verification report demonstrating completion and effectiveness of the remediation shall be submitted to and approved in writing by the local planning authority before the relevant part of the site is first occupied.