



Appeal Decision

Inquiry held on 8, 9 and 10 January 2013

Site visit made on 11 January 2013

by Jessica Graham BA(Hons) PgDipL

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

Decision date: 18 February 2013

Appeal Ref: APP/X1118/A/12/2182606

Land off Goodleigh Road, Barnstaple, Devon

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Wainhomes (South West) Holdings Ltd against North Devon District Council.
 - The application, Ref 53348, is dated 22 December 2011.
 - The development proposed is the erection of 182 dwellings, their associated roads, sewers, landscaping, parking, garages and associated works.
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Decision

1. The appeal is dismissed, and planning permission for the erection of 182 dwellings, their associated roads, sewers, landscaping, parking, garages and associated works on land off Goodleigh Road, Barnstaple, Devon is refused.

Procedural matters

2. The application was accompanied by an Environmental Statement made in accordance with the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 ("the EIA Regulations"). The ES covers all the matters normally associated with large-scale housing development, includes additional site-specific matters and sets out mitigation proposals. Additional information on noise and population effects was provided during the course of the appeal, and at the inquiry I heard further evidence on (among other things) the characteristics of the site, local infrastructure, local heritage assets and the relationship of the development to the wider area. I am satisfied that all of this represents the necessary environmental information for the purposes of Regulation 3 of the EIA Regulations, and I have taken this information into account in my consideration of the appeal.
3. In accordance with a timetable agreed at the inquiry, the Council provided additional information to clarify its reasons for requiring various financial contributions toward local infrastructure and services, and the appellant provided written comments on that additional information. I have taken this material, and the updated S.106 Unilateral Undertaking executed by the appellant (dated 24 January 2013), into account in my consideration of this appeal.

Main issues

4. I consider the four main issues to be
 - (1) whether or not the Council is able to demonstrate a five year supply of housing land, and the implications of that in terms of national guidance and Development Plan policy;
 - (2) the effect that the proposed development would have upon the character and appearance of the area, and upon the setting of Gorwell House and Tollgate Cottage;
 - (3) the adequacy of the access arrangements; and
 - (4) whether sufficient provision would be made to offset the impact of the development on local services and infrastructure, including the provision of affordable housing.

Reasons

5. The appeal site lies outside the settlement boundary of Barnstaple, as identified in the North Devon Local Plan. This means that building houses on it would conflict with Development Plan policy aimed at protecting the countryside by preventing development outside settlement boundaries. However, that is not quite the end of the matter.
6. S.38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise. The *National Planning Policy Framework* ("the Framework"), published by the Government in March 2012, is one such material consideration. Paragraph 47 of the Framework explains that local planning authorities should identify a supply of sites sufficient to provide five years worth of housing. Paragraph 14 explains the operation of the Framework's "presumption in favour of sustainable development". Both of these considerations are capable of altering the weight to be given to conflict with Development Plan policies, and so it will be helpful to begin by looking at their application to the current case.

1. The five-year supply of housing land

7. In order to assess whether a local planning authority is able to demonstrate a five-year supply of deliverable housing sites, it is first necessary to establish its five-year housing requirement.

Housing requirement

8. Paragraph 47 of the Framework states that local planning authorities should use their evidence base to ensure that their Local Plan meets their full objectively-assessed needs for housing, and paragraph 158 explains that the evidence needs to be adequate, up-to-date and relevant. However, the North Devon Local Plan, adopted in July 2006, was only intended to cover the plan period 1995 to 2011, and so cannot now be considered up-to-date. The appellant and the Council agree that for the purpose of assessing future housing need, the housing requirement figures contained in the Devon Structure Plan (adopted in 2004) are also out of date, and I share that view. It is therefore clear that assessment of this district's housing requirement for the next five years should be informed by other more recent evidence.

9. The appellant contends that the best available evidence is that of the Draft Regional Spatial Strategy for the South West ("Draft RSS"). While I note the Council's concern that the Draft RSS is not (and in the light of the government's clear intention to revoke Regional Strategies, is unlikely ever to become) part of the Development Plan, that that does not mean that the evidence that informed its preparation should simply be disregarded. Its evidence base was thoroughly tested at an Examination in Public, the findings of which resulted in the (then) Secretary of State publishing a series of Proposed Changes in 2008. The North Devon housing requirement set out in the Draft RSS indicates that the district's housing requirement for the next five years, incorporating the 5% buffer required by the Framework and the existing unmet requirement, would be 4,221. Notwithstanding the number of objections raised at the Proposed Changes stage, that is a figure which carries considerable weight.
10. The Council contends that its most recent Strategic Housing Market Assessment (the 2012 SHMA) is based on the most up-to-date evidence available, complies with the requirements of paragraph 159 of the Framework, and constitutes an objective assessment of the district's housing need. The housing need identified by the 2012 SHMA indicates that the district's housing requirement for the next five years, incorporating the 5% buffer required by the Framework and the existing unmet requirement, would be 1,912. I attach some weight to the fact that this figure is based on the most up-to-date evidence. However, that weight must be tempered to reflect the fact that while the 2012 SHMA will be an important component of the evidence base used to inform the emerging Local Plan it has yet to be scrutinised at an Examination in Public, and the evidence base will include a variety of other assessments and projections, any or all of which may have a bearing on the Council's policy decisions as to how the district's housing requirement should be established.
11. My attention was also drawn to the housing requirement figure set out in the Council's 2008 SHMA, and the 2008-based Household Projections for North Devon published in November 2010. I attach little weight to the former, since it "took into account" the evidence base of the draft RSS but was not subject to the same scrutiny as that draft component of the Development Plan, and has in any event been superseded by the production of the 2012 SHMA. I also attach limited weight to the household projections, since they are not intended to be definitive of overall requirement, but rather to form part of the evidence base on which the Council's decisions about the district's housing need will be made.
12. Taking all of this into account, I consider that the housing requirement set out in the draft RS carries more weight than the various alternative figures, having been subjected to rigorous public testing, but that it would be unreasonable not to make some allowance for the fact that the more recent (albeit untested) evidence of the 2012 SHMA indicates that the housing need is now very much lower. It is not within my remit, in the context of this appeal, to determine the district's actual housing requirement: all that I can reliably conclude, from the evidence before me, is that it is likely to fall somewhere between the 4,221 derived from the draft RSS, and the 1,912 derived from the 2012 SHMA.
13. Since I have insufficient evidence to inform any attempt at assessing whereabouts within that vast range the true figure might lie, I will use the figure at the lowest end of the spectrum. I need to make it absolutely clear that this conclusion should not be confused with an endorsement of that lowest

figure as representing the objectively assessed housing need for the district. It is entirely possible that the figure eventually adopted in the emerging Local Plan will be closer to that in the draft RSS. My decision to use the 2012 SHMA figure for the purposes of this appeal turns on the mathematical consideration that if a five year housing supply cannot even be demonstrated against the lowest of the various alternative housing requirement figures presented, then that supply clearly does not exist.

14. A further adjustment is however necessary, to address the existing shortfall in housing provision. The five-year requirement of 1,912 is derived from the figures in the 2012 SHMA using the Council's preferred approach of spreading the shortfall across the whole 20 year plan period. I am not convinced by the Council's argument that this approach is rendered necessary by the size of the district's housing market. In my view, the correct approach is to include the shortfall within the requirement for the next five years' provision, on the basis that it constitutes an existing unmet housing need which ought to be addressed promptly rather than allowed to continue for potentially another 20 years. On the basis of the agreed figures submitted at the inquiry (document 33), calculations adopting this approach establish a five-year housing requirement, incorporating the 5% buffer required by the Framework, of 2,315 dwellings.

Housing supply

15. Following a very helpful round-table discussion at the inquiry, the evidence of the Council was that it was able to demonstrate a supply of specific, deliverable sites sufficient to deliver 1,905 dwellings over the next 5 years. The appellant's position was that the supply is slightly lower, and only sufficient to deliver 1,821 dwellings (document 33).
16. The Council and the appellant were unable to agree whether the additional 5% buffer required by paragraph 47 of the Framework "to ensure choice and competition in the market for land" would be sufficient, or whether there has been a record of persistent under delivery of housing in the district, such as would oblige the Council (under the further provisions of paragraph 47) to increase the buffer to 20%.
17. However, for the purposes of establishing the housing supply position in this particular case, the differences between the parties as to the number of deliverable sites and the size of the buffer are of little relevance. Even if the evidence of the higher number of deliverable sites is preferred, and the smaller (5%) buffer is applied, the district's five-year supply of housing land clearly falls short of its five-year housing requirement.

The policy implications of the housing supply position

18. Paragraph 49 of the Framework states that relevant policies for the supply of housing should not be considered up-to-date if, as is the case here, the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. The Council takes the view that "relevant policies for the supply of housing" are those which relate to housing numbers, but not those which concern settlement boundaries. That seems to me too restrictive an interpretation. In my judgment, policies which seek to direct the location of new residential development can reasonably be considered relevant to the supply of housing.

19. On that basis I conclude that Policy HSG2 of the Local Plan, to the extent that it seeks to prevent residential development outside the development boundary of settlements, should be considered out of date.
20. This in turn has implications for the application of paragraph 14 of the Framework to the current case. Paragraph 14 sets out how the presumption in favour of sustainable development, said to lie at the heart of the Framework, should operate. My understanding of the Council's position is that it considers a prior assessment of a proposal's sustainability to be necessary, before going on to apply the provisions of paragraph 14; on the basis that if the development were not sustainable, the presumption in favour could not apply. I am not convinced that any such prior assessment is necessary. My reading of paragraph 14 is that it sets out to explain what is meant by a "presumption in favour of development" firstly for plan-making, and secondly for decision-taking. It is the "decision-taking" section that is relevant here, and proceeding in accordance with the guidance contained in that section will ensure that any presumption in favour of the current proposal is established and applied in the manner the government intended.
21. The "decision-taking" section of paragraph 14, then, defines the operation of the presumption in favour of sustainable development as meaning that where (as here) relevant policies are out of date, permission should be granted unless (a) any adverse impacts of so doing would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or (b) specific policies in the Framework indicate that development should be restricted. The decision-taker is therefore required to identify, and then to balance, the benefits and adverse impacts of the proposal. It is to this requirement that I now turn.

(2) The character and appearance of the area, and the setting of listed buildings

22. The Council indicated that had it determined the application, its first reason for refusing to grant planning permission would have concerned the impact on the integrity of the landscape setting of the town, and the character of the surrounding landscape. Its second reason for refusal would have concerned the impact on the setting of Gorwell House and Tollgate Cottage, which are both listed buildings.

Landscape

23. The appeal site consists of two south-west facing fields to the east of Barnstaple, mainly laid to grass, which together extend to some 8.96ha. The land slopes down from the north-east to the south-west, such that the difference in levels across the site is around 40m. A public footpath runs across its northern section.
24. It is common ground that *The Devon Landscape: An Appraisal of Devon's Landscape At The Beginning of the 21st Century* (published by Devon County Council in 2002) provides a helpful assessment of the Taw-Torridge Estuary Landscape Character Zone. It describes the landscape as "...essentially an area of lowland surrounding the two major arms of the estuary, the whole being surrounded by a ring of land at a higher level, creating almost a saucer-like effect." It then goes on to consider the integrity of this Landscape Character Zone, and finds it to be "...highly vulnerable and ... probably approaching a position where it could be irrevocably changed", one of the threats to integrity

being the continued expansion of the major towns. It notes that "most of the downland rim continues free of development" and concludes that if this feature (among others) can be retained, "...then perhaps the Zone's integrity will not be lost".

25. I consider that a fair assessment. I saw that the undeveloped tops of the hills that surround Barnstaple to the north, east and south are clearly visible from viewpoints within the town, and from its western approaches. The built-up part of the settlement runs up the lower slopes of the surrounding hills but there still remains an unbroken "downland rim", which serves to define and contain the edges of the settlement, and is an important element of its landscape setting.
26. More recently, the *North Devon and Torridge Strategic Housing Land Availability Assessment (SHLAA) 2011*, while recognising that the site had been identified as an option within the draft Core Strategy as an area for future significant housing growth, considered that its development would diminish the important contribution the site makes to the landscape setting of Barnstaple. It expressed the view that development above the 70m contour line would be prominent in the wider landscape, more so to the north of the footpath crossing the site.
27. The development now proposed would involve the construction of 182 houses on the appeal site, on the land to the south of the public footpath; the remainder of the site to the north of the footpath would be used to provide public open space. A proportion of the development would therefore be sited above the 70m contour line. I note the appellant's point that the SHLAA's reference to this contour line as a notional stopping-point for development could be considered somewhat arbitrary, but its use as a reference seems to me to have been prompted by the wholly understandable concern about the visual prominence of development on the upper slopes of the hillside.
28. I appreciate that on the basis of the evidence provided there would be no breach of the skyline, and that the Council accepts that some encroachment up the hillside would be acceptable. The appellant rightly points out that the issue is therefore of extent, rather than principle.
29. The provision of open space on the northernmost slope above the new housing would ensure a narrow sliver of undeveloped hilltop remained, but the development of the site up to the line of the existing footpath would nevertheless constitute a substantial encroachment upon a currently green and open hillside. In my judgment, the scale of the development would lead to the extensive erosion of this part of the undeveloped "downland rim" around Barnstaple, as would be clearly visible in public views from within and around the town, the approach via Sticklepath Hill, and from the well-used Tarka Trail.
30. I consider that the proposed diminution of this valuable and distinctive element of the landscape would cause significant harm to the setting of Barnstaple. I note that the landscape strategy for the proposed development includes the retention of large numbers of existing trees and most of the hedgebank currently dividing the two fields, and the provision of additional planting, but none of the measures proposed would mitigate the harm caused by the extent to which the undeveloped upper slopes of the hilltop would be replaced by housing.

31. I conclude that the proposed development would conflict with the objectives of Policies DVS1 and ENV1 of the Local Plan, which seek to ensure that proposals for new development respond to and reinforce locally distinctive landscape, and protect or enhance its beauty.
32. The "design principles" that inform Policy DVS1 state that development proposals can promote legibility by providing recognisable routes, interactions and landmarks, and advises that 'gateway' sites at the entrances to towns require particular attention. The Council contends that the landscape character changes suddenly from urban to rural at the brow of the hill around Tollgate Cottage, and that this location is of importance as a gateway to Barnstaple.
33. Given the existence of other residential development further to the east of Tollgate Cottage, fronting both sides of the road, I consider that the extent to which this building, or the location in general, constitutes a straightforward visual 'gateway' to the town is limited. Nevertheless, it marks the start of the built-up area of Barnstaple, and I agree with the Council's assessment that the landscape to its east is rural in character. The open fields that form the appeal site, prominent in views from the road as they slope upwards from the high hedgerow that directly adjoins it, contribute to that rural character.
34. The proposed development would include the creation of two new vehicular and pedestrian access points off Goodleigh Road. It would also involve the removal of the majority of the existing hedgerow along the site frontage on Goodleigh Road. A replacement Devon wall would be provided, but this new boundary treatment would be set back into the site to allow for visibility splays at the new accesses, and the provision of a pedestrian footway along the northern side of the road. Those urban features, together with clear views over the new Devon wall of estate-style housing stretching up the hillside, would drastically alter the existing rural character of the area; the natural beauty of fields that are currently part of the open countryside would be lost, as the site would effectively become part of the built-up area of Barnstaple.
35. To this extent I find that the proposal would further conflict with Policy ENV1 of the Local Plan mentioned above, which seeks to restrict development in the countryside to that which protects or enhances its beauty.

Listed buildings

36. Gorwell House to the immediate west of the appeal site, and Tollgate Cottage to the immediate south, are both Grade II Listed Buildings, and so both constitute "designated heritage assets" as defined by the Framework. In order to inform assessment of the impact that a development proposal would have on a heritage asset, the Framework first requires assessment of that asset's "significance". It defines significance as "The value of a heritage asset to this and future generations because of its heritage interest. That interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting". The concept of an asset's "setting" is further defined as "the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral."

Gorwell House

37. Gorwell House dates from the mid-late 1820s, and was originally constructed for the owner of Barnstaple's steam-powered lace factory. The undisputed evidence of the Council is that on setting up this factory, the owner chose a site for his new house that was at some distance from the town centre, being set in what was then open countryside, but with easy connections to the factory. Ownership of the property is now sub-divided but it is common ground that this house, of late Georgian architectural design and with largely intact interior detailing, remains of aesthetic and artistic value.
38. The house was aligned so that the front elevation faced south-west, to take advantage of what would then have been attractive views over the park-like setting to the south-west of the house, and toward the town. However, in the 1960s-70s this park-like setting was lost to the construction of the Gorwell Housing Estate. While the grounds of Gorwell House have therefore contracted, the carriage drive and walled garden are intact, and the open character of the agricultural fields to the east of the property remains unchanged.
39. Taking all of this into account, I consider that much of the significance of Gorwell House lies in the fabric of the building and its immediate grounds, and would not therefore be materially altered by the proposed development of neighbouring land. However, I share the Council's view that a part of the heritage interest of Gorwell House, and therefore a part of its significance, derives from its historic relationship with the settlement of Barnstaple. This aspect of its significance is informed chiefly by its setting in relation to the town. Built as a high-status residence for the owner of a local factory, it was deliberately sited in a countryside location, set above and away from the crowded and polluted town centre, visible from many viewpoints and framed with a green background and foreground.
40. As the settlement of Barnstaple has expanded outward and upward over time, the green foreground of Gorwell House has been replaced with residential development, and that substantial alteration to its original setting has eroded this aspect of its significance. Nevertheless, a large part of it remains, due to the retention of the green background. Gorwell House is markedly larger and taller than, and is set slightly above, the newer houses of the estate below. It is therefore readily discernible in public views from the west, including approaches to the town along the Tarka Trail and Sticklepath Hill, where it is seen against largely the same backdrop of open fields as when it was built.
41. The proposed development would replace this backdrop of open fields with a backdrop of housing. A band of open space, to provide the opportunity for extensive new planting of large trees, would be incorporated within the appeal site along the eastern boundary of Gorwell House. However, while such planting could provide helpful screening in views toward the new houses from within the grounds of Gorwell House, it would do little to mitigate the impact of the development in wider views from the west. The open, agricultural character of the fields which formed the original backdrop to this heritage asset would be lost, and it would be surrounded on all sides by residential development.
42. *The Setting of Heritage Assets*, a guidance note published by English Heritage, advises that where the significance of a heritage asset has been compromised

in the past by unsympathetic development affecting its setting, consideration still needs to be given to whether additional change will further detract from the significance of the asset. In my judgment, the loss of the original open, agricultural backdrop to Gorwell House would compound the harm caused by the loss of the original open, park-like foreground, to the extent that very little of its significance, in terms of its spatial separation from the town and its countryside setting, would then remain.

43. I note the appellant's contention that since public views of Gorwell House are limited at present, by allowing users of the recreational areas and walkers of the footpaths to appreciate this heritage asset, the proposed development would accord with the Framework's aim to optimise public appreciation of the historic environment. However, the views of the house afforded from the appeal site are not of its best elevations (as is clearly set out in the appellant's evidence), are constrained by the boundary wall, and would be further obscured by the proposed tree-planting as well as the proposed new houses. There are in any event already extensive public views of Gorwell House from the wider area, and for the reasons set out above, I consider that in these views the proposed development would adversely affect the surroundings in which the heritage asset would be experienced. I therefore find that the proposal derives no support from paragraph 137 of the Framework, which promotes opportunities for new development within the setting of heritage assets to enhance, or better reveal, their significance.
44. The Framework draws a distinction between "substantial harm" and "less than substantial harm" to the significance of a designated heritage asset, but what is meant by "substantial" is not further defined. The Council's view, which was not disputed by the appellant, is that "substantial harm" implies the near or total loss of a designated heritage asset, and I consider that a reasonable interpretation. I have found, above, that only a part of the significance of Gorwell House would be harmed by the current proposal; there would be no physical impact on its fabric or grounds. On that basis, I conclude that in the terms used by the Framework, the proposed development would lead to less than substantial harm to the significance of this designated heritage asset.
45. That being the case, paragraph 134 of the Framework requires the harm to be weighed against the public benefits of the proposal, a requirement I shall return to later. For the purposes of the Development Plan, I find that the proposal would conflict with Policy ENV17 of the Local Plan, which provides that development affecting the setting of a listed building will only be permitted where it preserves its setting.

Tollgate Cottage

46. Tollgate Cottage was listed in 1951, and described as "Toll house, now an ordinary dwelling". It is set hard up against the edge of the carriageway, and has a central projecting bay with a doorway and a window in either side, allowing views from within along the road in both directions. The design of its front elevation thus provides evidence of the way turnpikes once operated, and the architectural and historic value of this provides the major contribution to the building's significance as a heritage asset. As to its setting, the closeness of the building to the road was clearly important to its operation, and hence its significance.

47. There is some disagreement as to whether this toll point could ever have been regarded as a functional “gateway” to Barnstaple. Be that as it may, the situation today is that Tollgate Cottage faces the modern residential development of Elgar Close opposite; Wellclose adjoins its eastern boundary; beyond this on the southern side of the road are the cottages of Crookman’s corner; and beyond them to the east, a further group of dwellings fronting the northern side of the road. As discussed above, I consider that in light of this other existing residential development to the east of Tollgate Cottage, the extent to which this building could now be said to constitute a straightforward visual “gateway” on the eastern approach to the town is limited.
48. Nevertheless, the open, agricultural fields that comprise the appeal site currently provide visual separation, on the northern side of Goodleigh Road, between Tollgate Cottage and the residential development to its east and west. The immediately neighbouring dwelling at Wellclose is set some distance back from the edge of the road and screened by mature planting, and as a result Tollgate Cottage acts as a focal point in the street scene. The proposed development would retain the existing relationship between Tollgate Cottage and Wellclose but remove their visual separation from the existing development to either side; the new houses would also be visible on the hillside sloping upward to the rear.
49. As a result of this alteration to the setting of Tollgate House, its current prominence in the street scene would be considerably reduced. The proposal would in this respect further conflict with Policy ENV17 of the Local Plan, in that it fails to preserve the setting of this listed building.
50. In the terms of the Framework, however, the proposed alteration to the setting of Tollgate Cottage would have only a limited impact on the overall significance of this designated heritage asset. That is because its significance derives primarily from the architectural and historic value of the building’s physical fabric, and its close relationship to the road; these elements would remain unaltered by the proposed development.
51. I conclude that the development proposal would lead to less than substantial harm to the significance of this designated heritage asset, and in accordance with the requirements of paragraph 134 of the Framework, will later weigh that harm against the public benefits of the proposal.

(3) Access

52. The proposed development would incorporate a central footpath/cycleway for pedestrians and cyclists. The gradient of the land is such that steps would need to be incorporated within this path. I note the Highway Authority’s concern that this would prove inconvenient for cyclists, but it would be relatively straightforward to include wheeling ramps within the proposed steps, and this could be secured by condition. Further, the proposed estate roads would provide an alternative, less steep route for cyclists unwilling to dismount, with footways alongside these roads suitable for prams and wheelchairs.
53. *Manual for Streets* and *Manual for Streets 2*, which together constitute the government’s most up-to-date guidance on street design, provide advice on the optimal gradient of pedestrian and cycle routes but acknowledge that topography, and other site constraints, may sometimes make that difficult to achieve. The slope of the appeal site is considerable, and clearly has a bearing

on the gradient of the vehicular and pedestrian routes that can be provided. In my judgment, the proposed arrangements would not be unsafe or unsuitable in the terms of paragraph 32 of the Framework, and would accord with the aims of Policy TRA6 of the Local Plan, which seeks to secure the safety of road users. I therefore find that the proposed layout of the central footpath/cycleway is not a consideration which weighs against granting permission for the proposed development.

54. A number of local residents expressed concern about the impact that the proposed development would have on the local road network. The construction of 182 new dwellings would clearly increase the number of vehicular and pedestrian movements to and from the appeal site, and so would increase the volume of traffic on the surrounding roads. I note that some of these roads are narrow in places and can become very busy, particularly in summer at the height of the holiday season.
55. However these, and many other, important considerations informed the professional Transport Assessment submitted by the appellant and assessed by the Highway Authority. The Transport Assessment looked at the scope and condition of the existing highway infrastructure and transport services, and assessed the traffic impact of the proposed development on Goodleigh Road, Walton Way and Gorwell Road as well as a number of junctions within Barnstaple.
56. The proposed development would involve the provision of various off-site highway works, including the provision of a pedestrian footway along the site frontage, and a section of footway on Goodleigh Road at the junction with Crookman's Corner, where none currently exists. A traffic management system would also be introduced for this section of Goodleigh Road, involving the introduction of one-way flow for vehicular traffic, with formalised locations for traffic to stop and wait for vehicles travelling in the opposite direction to pass.
57. I can understand concerns that emerging vehicles may have to wait some time before being able to join the road, and that vehicles loading or unloading in the single-track section would temporarily block the flow of traffic, but I also note that this type of traffic management scheme can have benefits in terms of considerable reductions in speed, and reductions in the extent to which verges and driveways are damaged by vehicles attempting to pass side-by-side in narrow sections of road. The Highway Authority's consideration of the proposed new road layout included assessment of swept-path analysis diagrams and the available forward visibility, and it was satisfied that the traffic management scheme would operate effectively.
58. In conclusion, I have seen no substantive evidence that would cause me to disregard the Highway Authority's professional opinion that the proposed development would, subject to the provision of the identified off-site pedestrian footways and traffic management works, be acceptable in terms of its impact on the existing highway network.

(4) Impact on services and infrastructure

59. The Council's third and fifth putative reason for refusal related to its concerns that the proposed arrangements for the provision of affordable housing within the proposed development were inadequate, and measures to secure its provision, and that of other obligations necessary to mitigate the impacts of the

development, had not been put in place. However, at the inquiry the Council indicated that its concerns in respect of affordable housing had been satisfactorily resolved, with the S.106 Undertaking provided by the appellant now meeting its requirements.

60. I agree that the provisions detailing how the proposed affordable housing would be secured on the appeal site are necessary to render the proposed development acceptable, as are the other planning obligations contained in the Undertaking to secure the future maintenance of the Public Open Space, the Surface Water Drainage System, and highway trees; to ensure adequate public transport provision for future occupiers and to encourage sustainable travel choices; to ensure the provision of the Goodleigh Road highway works; and to part-fund improvements to the Derby Road green lane.
61. The Council requested a number of other obligations it believed necessary to offset the impact the proposed development. The appellant has included these within the executed Undertaking, but disputes the basis for requiring them. I shall consider each in turn.
62. The Council's Supplementary Planning Guidance (SPG) *Provision of Public Open Space, Sport and Recreation Code of Practice* (2004) explains that contributions toward open space and recreational facilities will be sought where proposed development would generate an additional need for such facilities, and the existing facilities would be inadequate to cope with that need. The proposed construction of 182 dwellings would be likely to generate a need for a range of facilities for children of different age groups. The Council is concerned that no on-site provision of a Multi-Use Games Area (MUGA), suitable for older children, is proposed; there is no such existing facility, within walking distance of the site, that they would be able to use. In these circumstances, I consider that the requirement either to provide an on-site MUGA, or alternatively a financial contribution to cover the Council's cost of providing an off-site MUGA nearby, is wholly reasonable and meets the tests set out in Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010.
63. The undisputed evidence of the Council is that the existing Barnstaple leisure centre, and other sport and recreation buildings nearby, are already operating at capacity in peak hours. The future occupiers of the new dwellings would add to the existing pressure on these facilities, necessitating expansion or new provision. I therefore consider that the planning obligation to pay a financial contribution toward "Built Recreation Facilities" in the vicinity of the appeal site, calculated in accordance with the SPG, meets the tests of Regulation 122. I note the appellant's point that the Council has not identified a specific project on which the contribution could be spent within 5 years of commencement of development, but that does not alter the fact that the development would generate a need for such a contribution.
64. Similarly the undisputed evidence of the Council is that sports pitches are already under-provided in Barnstaple, and again the future occupiers of the proposed new dwellings would increase demand for expansion of the existing facilities, or creation of new ones. The financial contribution toward such provision has been calculated in accordance with the SPG and I am satisfied that it meets the tests of Regulation 122.
65. I note however that the Undertaking also contains an obligation to pay a "Sports Area Maintenance Contribution" of £55,651. I have not been provided

with any evidence by either party as to why this contribution is considered necessary, and what it is intended to fund. It may be that it is directed toward the future maintenance of the play areas, open space and (potential) MUGA, but since such maintenance may alternatively (depending on an Open Space Management Scheme yet to be agreed) be funded by a Management Company, the necessity for such a contribution at this stage is unclear. In the absence of sufficient information to assess whether this contribution is necessary, reasonable, and directly related to the proposed development, I am unable to conclude that it meets the tests of Regulation 122. I therefore place no weight on the fact that the Undertaking makes provision for payment of this sum.

66. In summary, I find that all of the planning obligations contained in the appellant's Undertaking, with the sole exception of the "Sports Area Maintenance Contribution", meet the tests of Regulation 122 of the CIL Regulations 2010. I therefore conclude that the development proposal makes adequate provision for all of the measures the Council considers necessary to address the adverse impact the development would otherwise have on local services and infrastructure.

Other matters

67. The appeal site is a mix of 3ha of Grade 3A and 4ha of Grade 3B agricultural land. Land which is Graded either 1, 2 or 3A is considered "best and most versatile" agricultural land. Policy ENV7 of the Local Plan provides that development proposals not associated with agriculture will only be permitted on the best and most versatile agricultural land where (a) the economic or social benefits of the development outweigh the loss of the land, or (b) land of a lower grade is either unavailable, or has a recognised environmental value which outweighs the agricultural considerations. Paragraph 112 of the Framework advises that where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality.
68. The undisputed evidence of the appellant is that land in the area around Barnstaple is Grade 3, such that the appeal site is in any event of the lowest available grade, and that 7 of the 8 "potential areas of growth" identified in the Barnstaple Town Study Report (part of the evidence base for the Core Strategy) contain an element of land graded as 3A or above.
69. However, it is not within my remit in the context of this appeal, and nor do I have anything approaching sufficient information, to assess the relative merits of this appeal site against other potential locations for development. As outlined above, my approach must be to identify, and then to balance, the benefits and adverse impacts of this particular proposal. The fact that the appeal site would involve the non-agricultural development of some "best and most versatile" agricultural land is a consideration which needs to be weighed in that balance.
70. An application to add Wellclose House to the statutory list of buildings of special architectural or historic interest has been made, but not yet determined. This means that it is not a Listed Building for the purposes of Development Plan policy, or a "designated heritage asset" in the terms of the Framework. However, that is not to say that it has no heritage interest at all, and the Framework advises that the effect of a development proposal on the

significance of a non-designated heritage asset should be taken into account, having regard to the scale of any harm or loss.

71. The evidence before me indicates that the original part of Wellclose House was built in 1851, but has subsequently been much altered and amended. There is no clear indication of any special architectural or historic merit, and in my judgment the heritage value of the building, and consequently its "significance", derives primarily from its fabric and the disposition of its immediate grounds. The residential development of the agricultural land to the north, west and east of the property would fundamentally alter a large part of its original surroundings. While this would (as the appellant recognises) to some extent erode its significance, the fact that the setting makes only a limited contribution to that significance would restrict the amount of harm caused.
72. The occupiers of Wellclose, and other dwellings neighbouring the appeal site, expressed concern about the impact that the proposed development would have on their properties. I appreciate that the construction of new houses on neighbouring land is likely to create the perception of a substantial loss of privacy. However, the proposed layout of the development is such that the separation distances between new and existing dwellings, supplemented in many cases by additional boundary planting, would be sufficient to prevent any harmful levels of overlooking. The outlook from some existing dwellings and their private gardens, Wellclose in particular, would be altered but in my judgment this alteration would not cause significant harm to the living conditions of the existing occupiers.
73. Local residents also raised concerns about water run-off from the site and the ecological impacts of the development. However, these are matters which have been addressed in evidence submitted by the appellant and others, and assessed by the professional officers and advisers of the Council. From my consideration of the available evidence I consider that adequate measures to ensure proper drainage and ecological mitigation are available, and could be secured by condition. These are not, therefore, considerations that weigh against the proposal.

Conclusion

74. Drawing all of this together, there are a number of benefits that weigh in favour of the proposed development. I attach considerable weight to the fact that it would deliver both open-market housing and much-needed affordable housing, in a district that currently has an insufficient supply of housing land to meet its five-year housing requirement, and has fallen badly behind with its provision of affordable housing. In light of the emphasis placed by the government on the importance of economic growth, I attach some weight to the fact that the proposed development would assist the local economy through the generation of construction work, and a payment to the Council under the New Homes Bonus scheme. I also attach some weight to the provision of Public Open Space within the development, since these areas, previously in private ownership, could be enjoyed not only by future residents but also existing members of the community.
75. The Statement of Common Ground records the Council and appellant's agreement that "enhancements" to sustainable transport services and Public Open Space (including financial contributions toward off-site provision) secured

by the S.106 Undertaking amount to benefits of the proposed development. I do not agree with that approach. The provisions of the Undertaking should be aimed solely at addressing the impacts of this particular development, in order to render acceptable impacts that would otherwise be unacceptable; to the extent that they went beyond that, they would fail the tests of CIL Regulation 122, and should be disregarded. I therefore attach only very limited weight to these "enhancements", to account for such incidental benefits as might accrue to existing nearby residents from any spare capacity in the planned play areas, proposed MUGA and increased bus service.

76. As to the adverse impacts of the proposed development, I attach a great deal of weight to the serious harm that it would cause to the landscape setting of the town through the extensive erosion of this part of the undeveloped "downland rim" around Barnstaple, the retention of which is a key element in preserving the integrity of this Landscape Character Zone. I also attach some weight to the fact that the residential development of the appeal site would harmfully alter the existing rural character of this part of Goodleigh road.
77. I concluded above that in the terms used by the Framework, the harm caused to the "designated heritage assets", Gorwell House and Tollgate Cottage, would be less than substantial. But it does not follow that the weight attributed to the identified harm must also be less than substantial. Bearing in mind the requirement under S.66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have "special regard" to the desirability of preserving the setting of a listed building, I consider that the loss of the original backdrop to Gorwell House, resulting in the near total loss of that part of its significance which derives from its countryside setting and spatial separation from the town, would be an adverse impact of considerable weight. The alteration to the setting of Tollgate Cottage would cause a much lesser degree of harm to the significance of that building, but would still be an adverse impact carrying some weight.
78. Taken together, I consider that the harm caused to the landscape setting of Barnstaple, and to Gorwell House, would be sufficient to significantly and demonstrably outweigh the benefits of the proposed development. When the harm caused to the landscape character of this part of Goodleigh Road and the adverse impact upon the significance of Tollgate Cottage are added to the balance, along with the loss of some "best and most versatile" agricultural land and the more limited weight that attaches to the erosion of the heritage significance of Well Close, the clear conclusion is that planning permission should be refused.
79. I therefore determine that the appeal should be dismissed.

Jessica Graham

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr P Wadsley, of Counsel

Instructed by the Solicitor to North Devon Council

He called:

Mr B Hensley IEng FIHE MILT

Development Manager, Highways and Transport

Mr P Leaver BA(Hons) DipLD CMLI

Director, David Wilson Partnership Ltd

Ms C Hall MSc IHBC

Project Officer (Heritage and Conservation)

Mr P Rowan DipTP MRTPI

Director, Rowan & Edwards Ltd

FOR THE APPELLANT:

Mr P G Tucker QC

Instructed by Mr S Harris, Emery Planning Partnership Ltd

He called:

Mr S J Dale DipLA CMLI

Managing Director, ACD Group

Dr J Edis BA MA PhD MIFA IHBC

Partner, Heritage Collective

Mr S Harris BA(Hons) MRTPI

Associate Director, Emery Planning Partnership Ltd

INTERESTED PERSONS:

Mr Neighbour

Local resident

Mr Reed

Local resident

Mrs Andrew

Local resident

Mrs Phillips

Local resident

Mrs Marston

Local resident

Mrs Fish

Local resident

CORE DOCUMENTS

- CD 1 RPG 10
- CD 2 Devon Structure Plan 2010-2016
- CD 3 Adopted North Devon Local Plan 2006
- CD 4 Secretary of State's Proposed Changes to the draft RSS July 2008
- CD 5 North Devon and Torridge Joint Core Strategy – Pre-publication draft January 2010
- CD 6 Committee report and minutes for 7 November 2012 Meeting
- CD 7 Housing Land Supply 2012 Report
- CD 8 Landscape report produced by David Wilson Partnership Limited for North Devon Council
- CD 9 Strategic Housing Land Availability Assessment 2011
- CD 10 North Devon Annual Monitoring Report 2010/11
- CD 11 Affordable Housing Code of Practice (March 2004)
- CD 12 Guide on Refuse Storage for New Residential Properties (June 2007)
- CD 13 Developer Contribution Code of Practice (May 2007)
- CD 14 Education Contributions Code of Practice (February 2007)
- CD 15 Guidance on the Use of On-Site Renewable Technologies (May 2008)
- CD 16 Provision of Public Open Space, Sport and Recreation Code of Practice (March 2004)
- CD 17 Sustainable Design and Construction Guide (January 2010)
- CD 18 Barnstaple Town Study Report Core Strategy Evidence (October 2011)
- CD 19 The Devon Landscape – An Appraisal of Devon's Landscape at the beginning of the 21st Century
- CD 20 The Essence of Devon – Devon's Landscape (December 2003)
- CD 21 The North Devon Landscape Assessment (November 1993)
- CD 22 The Joint Landscape Character Assessment for North Devon & Torridge (2010)
- CD 23 The Setting of Heritage Assets, English Heritage (2011)
- CD 24 (removed)
- CD 25 Devon County Waste Local Plan
- CD 26 Listing description for Gorwell House
- CD 27 Listing description for Tollgate Cottage
- CD 28 Listing description for Milestone at SS 5735 3331 Goodleigh Road (south side)
- CD 29 National Planning Policy Framework
- CD 30 Listed Building Act 1990
- CD 31 North Devon Council Affordable Housing Delivery Plan
- CD 32 By Design – Better Places To Live
- CD 33 Devon County Council Design Guide: Highways in Residential and Commercial Estates
- CD 34 Manual for Streets
- CD 35 Manual for Streets 2
- CD 36 Guidelines for Landscape and Visual Impact Assessment (Second Edition) published by the Landscape Institute and the IEMA (2002) (GLVIA)
- CD 37 Landscape Character Assessment: Guidance for England and Scotland, published by Scottish Natural Heritage and the Countryside Agency (2002)
- CD 38 Landscape Institute Advice Note 01/11
- CD 39 Strategic Housing Market Assessment 2008
- CD 40 Post appeal submission consultation responses

DOCUMENTS SUBMITTED AT THE INQUIRY

- 1 List of appearances on behalf of the Appellant
- 2 Rebuttal proof of evidence of Mr S J Dale
- 3 Copy of appeal decision ref. APP/U1105/A/12/2180060, submitted by the appellant
- 4 Copy of appeal decision ref. APP/Y3940/A/11/2166277, submitted by the appellant
- 5 Copy of rebuttal proof and appendices of Mr I Awcock CEng MICE MIHT MCIWEM, a witness instructed, but not called, for the appellant
- 6 Copy of appendix CH3 to Ms C Hall's proof of evidence, not previously provided
- 7 Corrected proof of evidence of Mr P Leaver
- 8 Supplementary proof of evidence of Ms B Venn, a witness instructed, but not called, by the Council
- 9 Copy of the SHMA 2012 Final Report, submitted by the Council
- 10 Extract from *By Design: Better Places to Live*, submitted by the appellant
- 11 Extracts from Council's published affordable housing guidance, concerning provision of public open space by RSLs and the Affordable Housing Code of Practice, submitted by the appellant
- 12 Copy of *Affordable Housing Code of Practice – Revised Draft*, submitted by the appellant
- 13 Draft S.106 Agreement
- 14 Suggested conditions, with comments by Appellant and Council
- 15 Opening submissions on behalf of the Appellant
- 16 Opening submissions on behalf of the Council
- 17 Revised versions of Figures 3 and 6 of the appendices to Mr Leaver's proof of evidence
- 18 Mr Townsend's comments on disputed sites within the Council's identified housing land supply
- 19 Copy of appeal decision ref. APP/D3315/A/12/2170249, submitted by the Council
- 20 Copy of appeal decision ref. APP/U1105/A/11/2161479, submitted by the Council
- 21 Copy of appeal decision ref. APP/U1105/A/12/2180060, submitted by the Council
- 22 Copy of appeal decision ref. APP/Y2810/A/12/2180530, submitted by the Council
- 23 Schedule of submitted plans, agreed by the Council and the appellant
- 24 List recording the Council's and Appellant's respective views on the dwellings to be counted as part of the housing supply, following the round table discussion at the inquiry
- 25 Copy of viewpoint 11 from the appendices to Mr Dale's proof of evidence
- 26 Set of photographs of the appeal site and environs, submitted by Ms Phillips
- 27 Extract from the Draft North Devon and Torridge Local Plan
- 28 Mr Leaver's list of comparative ridge heights for Gorwell House and plots within the proposed development
- 29 Revised schedule of submitted plans, agreed by the Council and the appellant
- 30 Copy of p.103 of the North Devon Local Plan (2006)
- 31 Document setting out why the provisions of the S.106 deed are considered to be compliant with CIL Regulation 122, submitted by the appellant

- 32 Draft S.106 Undertaking
- 33 Document setting out the comparative calculations of the Council and the appellant concerning housing supply numbers, agreed by both
- 34 Amended version of Document 14 supra, submitted by the Council
- 35 Suggested wording for a condition governing parking space allocation, agreed by the Council and the appellant
- 36 Copy of Policy ECN15 of the North Devon Local Plan (2006)
- 37 Complete copy of the *North Devon and Torrington Local Plan Pre-Publication Draft (Committee Version)* dated January 2013, extracted at Document 27 supra, prefaced with a report to the Council Executive
- 38 Copy of closing submissions on behalf of the Council, with a summary of the appeal decisions at Documents 19, 20, 21 and 22 supra
- 39 Copy of closing submissions on behalf of the appellant

DOCUMENTS SUBMITTED AFTER THE INQUIRY

- 40 Agreed plan showing footpaths affording views of the site, to assist with site visit
- 41 Note explaining the Council's reasons for seeking the provision of planning obligations, with supporting material
- 42 Note setting out the appellant's comments on Document 40 supra
- 43 Executed S.106 Undertaking, dated 24 January 2013, given by the appellant

Richborough Estates