



Appeal Decision

Inquiry held on 7 - 9 August 2012

Site visits made on 9 -10 August 2012

by K D Barton BA(Hons) Dip Arch DipArb RIBA FCI Arb

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

Decision date: 25 September 2012

Appeal Ref: APP/U1105/A/12/2172708

Station Road, Feniton, Honiton, Devon EX14

- The appeal is made under Section 78 of the *Town and Country Planning Act 1990* against a refusal to grant planning permission.
 - The appeal is made by Wainhomes (South West) Holdings Limited against the decision of East Devon District Council.
 - The application Ref 11/2481/MFUL, dated 4 November 2011, was refused by notice dated 10 February 2012.
 - The development proposed is the erection of 50 residential dwellings their associated roads, sewers, landscaping, parking and garages and the provision of allotments, play space and a community building.
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Preliminary Matter

1. The Inquiry sat for three days from 7 to 9 August 2012. An accompanied visit was made to the site and its immediate surroundings on 9 August and unaccompanied visits to Tipton St John, West Hill, and Feniton and its wider surroundings were carried out on 10 August 2012.
2. As a result of recent archaeological work on site, including evaluative trenching, and the submission of a report that describes the records and allows an assessment to be made, the Council confirmed that it would no longer contest the third reason for refusal relating to archaeology. There is little evidence that there would be any material harm to archaeology on the appeal site and that could be ensured by a suitable condition attached to any permission.

Decision

3. The appeal is allowed and planning permission is granted for the erection of 50 residential dwellings their associated roads, sewers, landscaping, parking and garages and the provision of allotments, play space and a community building at Station Road, Feniton, Honiton, Devon EX14 in accordance with the terms of the application, Ref 11/2481/MFUL, dated 4 November 2011, and the plans submitted with it, subject to the conditions set out in the Schedule attached to this decision.

Whether the Development is Acceptable in Principle Having Regard to the Development Plan and Other Material Considerations Including Housing Land Supply

Background

4. The 'old' village of Feniton lies some 1.21 km (0.75 mile) to the east of what was formerly Sidmouth Junction. The Junction consisted of a public house, a chapel, and a few houses associated with the building and operation of the railway station of the same name but since the mid 1960s various housing developments have transformed the area around the station into the village of 'new' Feniton.
5. The appeal site, which has an area of approximately 2.4 hectares, excluding the access route from the south, lies on the eastern edge of 'new' Feniton with open countryside between it and 'old' Feniton. To the north is Station Road, on the opposite side of which are a couple of dwellings, with open countryside beyond. A mixture of housing, a youth club, allotments, and play space lie to the west, whilst to the south is housing development fronting onto, or accessed from, Green Lane.
6. The proposal would provide 50 dwellings, associated public open space, a community building, allotments, and associated infrastructure. The range of one and two storey dwellings would include from 2 to 4 bedrooms at an average density of some 29 dwellings per hectare. There would be 20 affordable units, 14 of which would be rented and 6 intermediate. There would be a minimum of two parking spaces per unit across the site.
7. Paragraph 38(6) of the *Planning and Compulsory Purchase Act 2004* requires decisions to be made in accordance with the development plan unless material considerations indicate otherwise. The development plan for the area includes the *Regional Planning Guidance for the South West 2001* (RPG10), the saved policies of the *Devon Structure Plan 2004* (SP) and the saved policies of the *East Devon Local Plan 2006* (LP).
8. The Council's reasons for refusal refer to *Planning Policy Statement 1: Delivering Sustainable Development* (PPS1) and *Planning Policy Statement 3: Housing* (PPS3) but these have subsequently been replaced by the *National Planning Policy Framework (Framework)* which is the most up-to-date policy document. The draft *Regional Spatial Strategy for the South West* (draft RSS), including the Secretary of State's proposed changes, was published for consultation in July 2008. Given the intention to abolish RSSs, this document attracts little weight but the evidence base is still relevant. The proposed submission version of the *New East Devon Local Plan* (draft LP) was considered by Committee on 8 May 2012 but given the early stage reached this also attracts little weight.
9. RPG10 identifies 11 Principal Urban Areas (PUAs), one of which is Exeter, which offer the best opportunity for accommodating the majority of development in the most sustainable way. RPG10 states that development should take place primarily within the PUAs, or in the form of planned urban extensions in sustainable locations with good access to the urban area by public transport, cycle and foot.

10. SP Policy ST5 states that the PAUs of Plymouth, Exeter and Torbay will be the primary focus for strategic development. It also refers to Area and Local Centres that are intended to meet more local needs and indicates that development in the countryside will be strictly controlled. However, SP Policy ST16 notes that at rural locations that are not designated as Local Centres there may be scope for small scale development which supports the need for local regeneration. Development within Exeter would not be sufficient to meet the strategic housing need and so SP Policy ST12 proposes a planned urban extension within East Devon.
11. The LP provides for a new community, known as Cranbrook, in accordance with the SP proposal. Planning permission has been granted and construction has commenced. In addition to defined Area and Local Centres, the LP also identifies villages as another tier in the hierarchy of settlements. The villages, identified in LP Policy S3, are stated to offer a range of services and facilities and, through the definition of a Built-up Area Boundary (BAB), they are regarded as appropriate to accommodate a limited scale of future development. Feniton is listed in the Policy as a village but the appeal site lies outside the defined BAB and so is in the countryside in policy terms. The proposal would, therefore, be contrary to development plan policy.

Housing Land Supply

12. It was generally agreed that the Council's *Technical Working Paper on Housing Land Supply* dated April 2012 should be used as the basis for assessing the supply of housing land, although the robustness of the figures is not agreed.
13. Paragraph 47 of the *Framework* requires an annually updated supply of specific deliverable sites sufficient to provide five years worth of housing against the housing requirements, with an additional buffer of 5% to ensure choice and competition in the market for land. The *Framework* goes on to state that where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20% to provide a realistic prospect of achieving the planned supply. The *Framework* also indicates that an allowance for windfalls can be made if there is compelling evidence that such sites have been consistently available in the local area and will continue to provide a reliable source of supply.
14. Paragraph 7.4 of the *Working Paper* accepts that over recent years, and taken as a whole, East Devon has not had a five year land supply. Indeed, on figures set out by the appellant there has been an under supply in the last 5 years, and in 8 out of the last 10 years. This indicates that a 20% buffer should be applied.
15. The Council maintains that a 20% buffer would not be appropriate as the shortfall is primarily due to a delay in starting Cranbrook, which is now on site, and as there is an oversupply in the RoED. Instead it suggests that a disaggregated approach should be taken to land supply figures and refers to numerous appeal decisions in support of this view.
16. Many of these decisions are in other parts of the country where different strategic plans are in force. The two most relevant decisions, although both predate the publication of the *Framework*, relate to sites at West Hill (APP/U1105/A/11/2155312) and Tipton St John (APP/U1105/A/11/2156973), both in East Devon, where the Inspector took the district wide position as the

- starting point but accepted that the disaggregated land supply position was not unimportant. Whilst the emerging, and adopted, development plans provide a spatial vision for the area, including a planned geographic distribution of housing, there is no policy in either that advocates a disaggregated five year land supply. Consequently the starting point should be the district wide five year supply.
17. In terms of the housing requirement, the *Working Paper* considers the emerging Local Plan and the Structure Plan that is part of the development plan. The former is based on far more up to date data, but has not been tested whilst the latter, although adopted, is based on data now a decade old. Both need to be considered.
 18. The *Framework* allows for the inclusion of windfall sites but paragraphs 3.8 and 3.9 of the *Working Paper* indicate that the total provision of new homes for 2006 to 2026 would be 14,695 planned provision plus 1,580 windfalls giving a total of 16,275 new homes. The windfalls are in addition to the 15,000 dwelling requirement, not part of it. In addition, 250 dwellings have been included from proposed strategic allocations in the draft LP. This has not been examined and there is no certainty they will be allocated as there have been objections. It is right to look at sites with planning permission and they should be considered deliverable until there is clear evidence that they will not be implemented within 5 years. Notwithstanding this, some sites have had planning permission for some time or have planning permission that has been renewed but still not yet been implemented. There must be some doubt that all these sites would come forward and so some doubt about the deliverability of all the Council's identified sites.
 19. The *Working Paper* tables relating to the Structure Plan were corrected during the Inquiry. Even if all the Council's identified developable sites are accepted, despite the doubts identified above, the addition of a 20% buffer reduces the housing land supply to 4.90 years district wide, 2.35 years at the West End and 23 years for the RoED. For the draft LP, if a 20% buffer is applied the housing land supply reduces to 4.48 years district wide, 3.24 at the West End and 6.14 for the RoED. The supply would reduce further should any of the Council's assumptions prove to be optimistic.
 20. The only application of a 20% buffer in the *Working Paper* is in relation to a phased five year assessment. In this scenario there would be 5.21 years supply district wide, 4.28 years in the West End and 6.15 years for the RoED. However, this approach was only introduced in the 8 May 2012 committee draft that is yet to be published for consultation and so can be given very little, if any, weight at this stage.
 21. The Council's failure to demonstrate a 5 year supply of deliverable housing sites is a significant material consideration in favour of the proposed development. It has policy consequences under the *Framework* as paragraph 49 states that where a 5 year supply cannot be demonstrated, relevant policies for the supply of housing should not be considered up-to-date. The Council accepts that this would also apply to BABs. The *Framework* indicates that in such circumstances housing applications should be considered in the context of the presumption in favour of sustainable development.
 22. The disaggregated figures are not unimportant and reflect the spatial strategy that directs differential growth to different parts of the district. The RoED

housing land supply figure has consistently been above 5 years whilst the West End supply figure has consistently been well below 5 years. The West End shortfall has been due to development at the PUA taking longer to come on stream but Cranbrook is now on site with completions meeting expectations, if not exceeding them. However, it will not make up the shortfall in the near future. The disaggregated figures reduce the weight to be given to the failure to demonstrate a 5 year land supply but do not outweigh it.

Sustainability

23. Policy seeks to direct development to locations where the need to travel is reduced and accessibility by public transport is maximised. Feniton has five bus services each way per day to Sidmouth, and one each way to Honiton but not on a Sunday. Many roads into the village are very narrow, but although the site entrance would be relatively close to the school there is little evidence that this would have any material effect on highway safety.
24. In addition, there is a railway station, albeit towards the western side of the village. There is a two hourly train service to Exeter and London with an additional service in the rush hour. This service has decreased over recent years and, as the franchise ends in 2015, it is difficult to see any improvement in the immediate future, particularly as Cranbrook is built out and its station comes into service. It is possible to travel to work at the Exeter Business Park by train, but the quality of the walk is not good and if the 17.54 train home is missed there is not another stopping at Feniton until 23.06 hours. Consequently, the latest census data from 2001 reflects the comments of local residents and shows that 3.51% travel to work by train, 0.7% catch a bus and 68.1% drive a car or van to work. The occupiers of the proposed dwellings would, therefore, be likely to be dependent on trips by private car.
25. Notwithstanding this, the regional spatial strategy envisages some development in rural areas. The housing requirements for 2001-2016 set out in SP Policy ST17 indicate that of the 8,450 dwellings for East Devon 3,500 are to be at the Exeter PAU and 4,950 elsewhere. Feniton is a rural settlement towards the bottom of the hierarchy in the development plan. However, it is better served than either West Hill or Tipton St John which have been the subject of recent appeals. It has a corner shop, takeaway and hairdressers, a community hall, public house and primary school. There is also a church and post office in 'old' Feniton some 970 metres from the appeal site, although the roads between the two are narrow with no footways. The doctor's surgery and secondary school are at Ottery St Mary.
26. There has been no appraisal of the sustainability characteristics of individual settlements, other than a document from 2001 that has not been updated, does not reflect the current position, and so can only be given little weight. On the other hand, draft LP Strategy 27 indicates that Feniton, amongst other small towns and larger villages, "offers a reasonable range of accessible services and facilities to meet some or many of the everyday needs of local residents and they have at least reasonable public transport". Devon County Council signed a Statement of Common Ground with another developer agreeing that Feniton has a good range of services and very good public transport accessibility.
27. Emerging strategy is that some limited growth can take place in settlements outside the PUA/West End. Feniton has at various times been considered

suitable for development of at least 70% of that proposed in this case. The *LDF Core Strategy Preferred Approach Report*, dated September 2010, originally proposed 50 new dwellings for each Hub town or village, of which Feniton was one. The draft LP now proposes a blanket increase of 5% in the smaller towns and larger villages, which in the case of Feniton would mean an additional 35 units.

28. Paragraph 7 of the *Framework* indicates that there are three dimensions to sustainable development, economic, social and environmental. Notwithstanding the likely dependency on the private car, Feniton is, overall, a sustainable location and both the Council and the Parish Council accept that a limited scale of development within the village would be appropriate.

Alternative Sites

29. An outline application by Strategic Land Partnerships for 120 houses on an unallocated site outside the BAB was refused permission by the Council and that decision has not been appealed. Work has been carried out with Feniton Parish Council in connection with the draft LP and has identified two sites for the proposed draft LP allocation of 35 dwellings, the majority being at Acland Park which is already the subject of an application for 32 houses. This would meet the identified need for affordable housing in the latest Housing Needs Survey. However, this only assesses need to 2017 and the Council accepts that there would be additional need to cover the full emerging plan period. Both these sites are outside the currently defined BAB for Feniton, as are the Strategic Land and appeal sites. The Acland Park site is a greenfield site, despite there being derelict barns and hardstanding on the land, and is a finger of land extending into the countryside adjoining the BAB on only one side unlike the appeal site.
30. The Officer's report to the Development Management Committee dated 17 July 2012 states that the preferred allocations process for Feniton is being undertaken to a faster timetable to ensure that its completion before this inquiry. The identification of these sites is claimed to reflect local feeling. However, the application on the Acland Park site was the subject of many objections by local residents, and the Parish Council, although the latter now promotes it. The Village Development Boundaries Document has not yet been produced and is likely to be subject to objections from developers with competing sites. Moreover, the sites were identified before the criteria for selection had been established, or before they were assessed by the SHLAA panel. Little weight can therefore be given to the identified sites at this stage.

Impact on Infrastructure

31. There are a number of infrastructure requirements needed to make the proposal acceptable in planning terms. None are raised by the Council as reasons for refusal and none are the subject of objections from statutory consultees that would lead to refusal of the proposals rather than the imposition of conditions or the requirement for a Section 106 Obligation.
32. Feniton Primary School has a capacity of 210 but has 225 pupils on the roll. It has been at, or close to, capacity for many years and no significant reduction in numbers is anticipated. The proposal would generate an additional demand for 12-13 school places, as would any additional housing provision in Feniton. The school is on a substandard site in terms of area. It is constrained and cannot

- be readily expanded. Additional demand could, therefore, require transporting children to other schools, which would not be sustainable. In terms of secondary provision, Kings School at Ottery St Mary has a capacity of 1,107 and a roll of 1,103. The proposal would generate around 3-4 additional pupils utilising the remaining capacity.
33. Notwithstanding the fact that the Strategic Land proposal could have provided additional land next to the school to allow for expansion, the County has not objected to the current proposals but instead has requested contributions. Based on the Department for Children, Schools and Families Cash Multiplier, including Devon's regional factor, the primary school contribution equates to £11,649 per pupil and the secondary to £18,241 per pupil. The County's Strategic Planning Children's Services indicates that the former contribution would go towards replacement of a temporary building providing an additional teaching/ancillary accommodation, or the vertical extension of the existing building. Kings School has a shortfall in drama provision and other specialist accommodation and the secondary school contribution would be used to support expansion to address these shortfalls.
34. A pre-school nursery operates within the school perimeter. The option of allocating the contributions towards a community building to support its relocation has been declined by the County as it prefers to maintain the existing integration through close proximity. A signed Section 106 Agreement would make provision for the payment of the education contributions. Whilst the primary school contribution would meet the tests in paragraph 204 of the *Framework* that reflects the tests in Community Infrastructure Levy (CIL) Regulation 122, the secondary school contribution is not necessary to make the proposal acceptable in planning terms as there is available capacity. This contribution has not therefore been taken onto account.
35. Many local residents have raised concerns about flooding, not from river or coastal inundation but from inadequate drainage. The concerns are that the proposal would prejudice future flood alleviation measures and/or increase flood risk. Paragraph 100 of the *Framework* indicates that land that is required for flood management should be protected from development. However, there is only a bid for funding for either an upstream alleviation scheme or a culvert to take flows around the village, with the latter being the currently preferred option. Should funding be provided, the culvert scheme for drainage through the development, rather than through a field, might have to be slightly redesigned but there is no indication that this would jeopardise the viability or practicality of the scheme and there is no objection from the drainage authority.
36. Surface water run off would be to a new surface water sewer that would discharge to the watercourse to the west of the site rather than the existing combined sewer. The proposed trenches/swales would be for interception and attenuation storage and would not be soakaways relying on infiltration. There would be a reduced run off constituting a 10% betterment. Whilst the proposal is not the Environment Agency's preferred approach, it has scrutinised the Flood Risk Assessment and accepted the mitigation. The Council has also looked at the Flood Risk Assessment and it is inconceivable that it would not enforce a condition requiring maintenance of the system. This matter could be covered by a suggested planning condition attached to any permission.

37. In terms of foul water drainage, South West Water confirms that the foul sewer network and pumping station to which the development would discharge have extremely limited capacity, and regular maintenance is necessary to enable the situation to be managed for existing flows. Consequently, if the development were allowed to proceed without first securing the necessary investigations and improvements, there would be a serious risk that the foul sewer network would be unable to cope.
38. The problem is suspected to be the use of pitch fibre pipes when Green Lane was built and if that proves to be the case the solution would be to replace or line the pipes. The sixth schedule of the Section 106 Obligation relates to Foul Sewerage contributions including one for evaluation. The Obligation includes alternatives depending on whether the Sewerage Network Contribution or the Sewerage Network Discounted Aggregate Deficit Contribution is considered appropriate. The latter takes into account not just the cost of providing the sewer but also the income from drainage charges that would be payable by those using it and so would be more fairly and reasonably related to the development proposed.
39. The Section 106 Obligation would preclude construction commencing on more than 12 houses before the payment of the Sewerage Network Discounted Aggregate Deficit Contribution. However, it is important that no additional load is put on the existing system until the improvement works have been fully implemented. A condition would, therefore, be required precluding the occupation of any of the proposed dwellings until the works identified to upgrade/improve the network have been completed. The provision in relation to Foul Drainage would meet the tests in the *Framework* and the condition would meet the tests in *Circular 11/95*.

Loss of Grade 2 Agricultural Land

40. It is not disputed that the appeal site is Grade 2 agricultural land. *Framework* paragraph 112 indicates that the economic benefits of this land should be taken into account and that where significant development is necessary, areas of poorer quality land should be sought in preference to that of higher quality. An Environmental report advises that the land around Feniton is Grade 2. If Feniton was to expand beyond the currently defined BAB, it is likely that Grade 2 land would be required. Natural England only requires to be consulted if the loss of high quality agricultural land would be 20 hectares or more and the loss of 5 hectares would not be significant. In these circumstances, the loss of some Grade 2 agricultural land would carry little weight in the overall planning balance.

Other Matters

41. A ridge to the east of 'new' Feniton provides a visual separation from 'old' Feniton which emphasises the different character of the two settlements. The existing allotments and playspace provide a gradation from built development to open countryside although this is not readily appreciated from public vantage points. Although 'new' Feniton 'sits down' in the landscape, and the proposal would narrow the gap between the settlements slightly, the view from vantage points to the west would still be of development against a rural backdrop and would not break the skyline of the ridge. There would, therefore, be little impact on the landscape setting of the village.

42. The highway authority has indicated that visibility splays to the 3 metre wide cycleway/footpath would be on its land. However some residents maintain that the provision of the splays might require their land. This is a legal rather than a planning matter. I appreciate that many residents do not want the scheme, 74% of respondents to a questionnaire objected to the proposals, and it has been suggested that the appeal proposal is a precursor to further development as there is no definite feature to enclose it, and as a pre-application consultation exercise was for a larger scheme. However, each proposal should be considered on its own merits and these factors would not, in themselves, justify dismissing this appeal.

Planning Balance

43. The proposal would be contrary to development plan policy objectives as it is in the countryside adjoining the BAB. However, the persistent under supply of housing against requirements means a 20% buffer should be applied to the 5 year housing land supply. On this basis there, is not a district wide 5 year supply of housing land. Despite a 5 year supply in the RoED, and the fact that construction has commenced at Cranbrook, the undersupply would not be made up in the near future. As a result, the existing BAB and the relevant housing policies in the development plan should be considered out of date and there would be a presumption in favour of sustainable development.

44. Feniton is not as sustainable as Cranbrook or other development at the PUA/West End, and occupiers of the proposed dwellings would be likely to be reliant on the private car. However, there are three dimensions to sustainable development. The draft LP accepts that some development, as much as 70% of what is proposed, would be appropriate as Feniton is reasonably sustainable with a reasonable range of day to day services. The proposal would also help meet the full identified affordable housing need for the next 5 years. On balance, the proposal would be sustainable.

45. There would be some loss of Grade 2 agricultural land but that is likely to be the case for other alternatives sites, although little weight can be given to any alternative at this stage. Improved infrastructure requirements could be ensured by Section 106 Obligation or condition and there is little indication that the proposal would not be deliverable within 5 years.

46. Notwithstanding that the proposal would be contrary to the development plan, and there would be some loss of Grade 2 agricultural land, the failure to demonstrate a 5 year housing land supply leading to a presumption in favour of sustainable development is a significant material consideration, which together with meeting the identified affordable housing need, would justify allowing the proposal.

Conditions and Section 106 Obligation

47. In addition to the normal time condition, and the conditions relating to surface water, foul water, and archaeology mentioned above, a condition listing the approved drawings should be attached in the interests of good planning and for the avoidance of doubt. Notwithstanding that some information is provided on the application drawings, details of the on-site infrastructure in terms of roads and their environs should also be required to satisfy the requirements of LP Policy TA7. In the interests of highway safety, during the construction period the first 20 metres of the access road, ironwork, and a site compound and car

park should be provided prior to any development on the rest of the site. Similarly, in the interests of highway safety, no dwelling in any phase should be occupied until the access, footways, lighting and other highway provisions that would serve that dwelling have been implemented.

48. A condition requiring samples of external materials to be approved would safeguard the character and appearance of the area. Many landscaping details are included on the application drawings but not all boundary treatments seem to be detailed. A condition requiring landscaping and boundary details and implementation should be attached to ensure the proposal respects its surroundings. In addition, a further condition requiring details of protection for retained trees and shrubs should be attached including restrictions on activities that might endanger the retained trees. Ecological mitigation, enhancements and recommendations are included in a report submitted with the application. These should be required to be implemented by a condition to prevent material harm to the environment in accordance with the aims of LP Policy EN6.
49. In terms of archaeology the Council indicated that it had been advised that model condition 55 of *Circular 11/95* had been recommended but that would require a scheme of investigation prior to any development which has already been carried out. It would therefore be more appropriate to attach model condition 54 requiring access to be afforded to any archaeologist nominated by the Council to observe excavations and record items of interest and finds.
50. In addition to the provisions for Education and Foul Drainage, a Section 106 Obligation would also make provision in Schedules 1 and 2 for affordable housing. LP Policy H4 indicates that a minimum of 40% affordable housing will be sought and that is what would be provided in this case, which would meet the identified local affordable housing need. The provisions of the Obligation meet the Council's requirements and the tests in the *Framework* and CIL Regulation 122.
51. LP Policy RE3 requires provision of Open Space including formal and informal recreation uses. Schedule 3 of the Section 106 Obligation would provide both open space and a LEAP play area in line with the policy which would meet the tests in paragraph 204 of the *Framework*. In addition, provision is made for a footpath/cycleway link and a bus drop off, although residents maintain that there are already three entrances to the site from Green Lane. Whilst the link and drop off might be advantageous, they are not necessary to make the proposal acceptable in planning terms and so have not been considered in determining this appeal.
52. Schedule 5 of the Obligation makes provision for leasing land for a community building, village hall access, and allotments. Only the land is offered and there is little evidence of a desire by any public body to provide the community building. These measures do not directly relate to the proposal and would not satisfy the tests in the *Framework*. They have not been taken into account in determining this appeal.

K D Barton

INSPECTOR

Schedule of Conditions Attached to APP/U1105/A/12/2172708

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans and documents:
 - 0438-100 Topographical Survey;
 - 0438-101A Location Plan;
 - 0438-102C Planning Layout;
 - 0438-103A Street Scenes;
 - 0438-104C External Works Layout;
 - 0438-105C Vehicle Tracking;
 - 0438-106A External Detailing;
 - 0438-107C Adoption Plan;
 - 0438-108C Material Layout;
 - 0438-109A Garages;
 - 0438-110C Storey Heights Plan;
 - 0438-111D Affordable Housing Plan;
 - 0438-112 Community Building Elevations;
 - 0438-113, Community Building Floor Plan;
 - 0438-114C Movement and Car Parking;
 - 0438-115C Phasing Plan;
 - 0438-200 to 229 House Type Booklet Issue 4 9/1/2012;
 - 0438B Parking Matrix 9/1/2012;
 - 30495/PHL/02B Preliminary Access Layout;
 - 30495/RP/01A Road Profiles;
 - 30495/PHL/01I Preliminary Highway Levels;
 - WAIN17934-10 Landscape Strategy Masterplan;
 - WAIN17934-11 Sheet 1 Landscape Proposal Rev E;
 - WAIN17934-11 Sheet2 Landscape Proposal Rev E;
 - WAIN17934-11 Sheet 3 Landscape Proposal Rev E;
 - WAIN17934-12a Landscape Details Play Area Proposals;
 - WAIN17934spec-Landscape Specification; and
 - WAIN17934man-Landscape Management and Maintenance Plan.
- 3) No development shall take place until details, including the design, layout, levels, gradients, materials and method of construction, of the proposed estate road, cycleways, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, road maintenance/vehicle overhang margins, embankments, visibility splays, accesses, car parking, and street

furniture have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

- 4) No development shall take place until:
 - a) The access road has been laid out, kerbed, drained and constructed up to base course level for the first 20 metres back from its junction with the public highway;
 - b) The ironwork has been set to base course level and the visibility splays required by this permission have been laid out;
 - c) A site compound and car park have been constructed in accordance with a plan that has been submitted to and approved in writing by the local planning authority
- 5) No dwelling shall be occupied in an agreed phase until the following works have been carried out;
 - a) The spine road and cul-de-sac carriageway including the vehicle turning head within that phase shall have been laid out, kerbed, drained and constructed up to and including base course level, the ironwork set to base course level and the sewers, manholes and service crossings completed;
 - b) The spine road and cul-de-sac footways and footpaths which provide that dwelling with direct pedestrian routes to an existing highway maintainable at the public expense have been constructed up to and including base course level;
 - c) The cul-de-sac visibility splays have been laid out to their final level;
 - d) The street lighting for the spine road, cul-de-sac and footpaths has been erected and is operational;
 - e) The car parking and any other vehicle access facility required for the dwelling have been completed;
 - f) The verge and service margin and vehicle crossing on the road frontage of the dwelling have been completed with the highway boundary clearly defined; and
 - g) The street nameplates for the spine road and cul-de-sac have been provided and erected.
- 6) No building hereby permitted shall be occupied until surface water drainage works have been implemented in accordance with details that have been submitted to and approved in writing by the local planning authority. These details shall ensure a betterment in accordance with the submitted Flood Risk Assessment and drawing 1495/PDL/01B. Before these details are submitted a further assessment shall be carried out of the potential for the disposal of surface water by means of a sustainable drainage system and the results of the assessment provided to the local planning authority. Where a sustainable drainage scheme is to be provided the submitted details shall;
 - a) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measure taken to prevent pollution of the receiving groundwater and/or surface waters;

- b) include a timetable for its implementation; and
 - c) 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.
- 7) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 8) No development shall take place until a landscaping scheme has been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. The scheme shall include details of trees, hedges, shrubs, herbaceous plants and areas to be grassed together with details of any proposed walls, fences and other boundary treatments. The approved landscaping scheme shall be carried out in the first planting and seeding seasons following the commencement of the development and maintained for a period of 5 years. Any trees or plants which within that period die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 9) The developer shall afford access at all reasonable times to any archaeologist nominated by the local planning authority, and shall allow that person to observe the excavations and record items of interest and finds.
- 10) No development shall take place until an ecological mitigation strategy in accordance with the mitigation, enhancements and recommendations contained in the report prepared by Hutchison Ecological Associates reference HEA 135/11 has been implemented.
- 11) No development, including demolition, shall take place until tree protection details; including the protection of all trees hedges and shrubs has been submitted to and approved in writing by the local planning authority. The details shall adhere to the principles embodied in BS 5837:2012 and shall indicate exactly how and when the trees will be protected during the works. Provision shall be made for the supervision of tree protection by a suitably qualified and experienced arboricultural consultant and details shall be included within the tree protection statement. The development shall be carried out in accordance with the approved details. The following restrictions shall be observed;
- a) No burning shall take place in a position where flames could extend to within 5 metres of any part of a tree to be retained;
 - b) No trenches for services or foul/surface water drainage shall be dug within the crown spreads of any retained trees or within half the height of the trees whichever is the greater. All such installations shall be in accordance with the advice given in the National Joint Utilities Group Publication Number 10 1995;

- c) No changes in ground levels or excavations shall take place within the crown spreads of retained trees or within half the height of the trees whichever is the greater.
- 12) No building hereby permitted shall be occupied until works to improve the foul sewerage network to enable it to cope with the flows from the proposed development have been completed.

Richborough Estates

APPEARANCES

FOR EAST DEVON DISTRICT COUNCIL:

Richard Ground of Counsel	Instructed by the Solicitor to the Council
He called	
James Brown BSc(Hons) MA FRGS MRTPI	Principal Planning Officer, East Devon District Council
Matthew Dickins MRTPI	Planning Policy Manager, East Devon District Council

FOR WAINHOMES (SOUTH WEST) HOLDINGS LTD:

Paul Tucker QC	Instructed by Emery Harris Planning Partnership
He called	
Stephen Harris BA(Hons) MRTPI	Associate Director, Emery Harris Planning Partnership

FOR STRATEGIC LAND PARTNERSHIPS:

David Seaton Chartered Town Planner	PCL Planning Ltd, 1 st Floor, 3 Silverdown Office Park, Fair Oak Close, Clyst Honiton, Exeter, Devon EX5 2UX
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INTERESTED PERSONS:

Mr Derek Bodycombe	Feniton Resident
Dr John Withrington	Feniton Resident
Mrs Jane Blackmore	Feniton Resident
Valerie Jones	Feniton Resident
Anthony Harper	Feniton Resident
Mr F J Tregoning	Feniton Resident
Mr Ernest Peters	Feniton Resident
Susie Bond	Feniton Resident

DOCUMENTS SUBMITTED AT THE INQUIRY

- 1 Letter dated 3 August 2012 re not contesting reason for refusal relating to Archaeology submitted by EDDC
- 2 Rebuttal Proof of Evidence by Stephen Harris
- 3 Proof of Evidence of Tim Hartley and DCLG e-mail relating to site at former Mitchell Shackleton Site, Salford submitted by Wainhomes
- 4 E-mail from Taylor Wimpey dated 6 August 2012 submitted by Wainhomes

- 5 Opening Submissions on behalf of Wainhomes
- 6 Annex A Accessibility and Parking Standards submitted by EDDC
- 7 Statement read out by Dr John Withrington
- 8 Photographs submitted by Valerie Jones
- 9 Statement read out by Anthony Harper
- 10 Appeal Decision Ref APP/Y3940/A/11/2159115 Land off Park Road Malmesbury submitted by EDDC
- 11 Committee update report dated 6 December 2011 Ref 11/2245/MOUT submitted by Strategic Land Partnerships
- 12 E-mail date 31 July 2012 re Feniton School areas submitted by Strategic Land Partnerships
- 13 Corrected Tables from Mr Dickin's Proof submitted by EDDC
- 14 Pedestrian/Cycle access at Green Lane Drawing No 31495/PHL-200 Rev A submitted by Wainhomes
- 15 A4 Drawing of drainage proposal submitted by Wainhomes (A3 version later submitted by Strategic Land Partnerships)
- 16 Rebuttal note to Proof of Evidence of David Seaton dated 7 August 2012 submitted by Wainhomes
- 17 Photographs submitted by Mr Peters
- 18 Taylor Wimpey e-mail re Sales Rates dated 8 August 2012 submitted by Wainhomes
- 19 Chief Planning Officer letter dated 25 November 2002 re Grampian conditions submitted by Wainhomes
- 20 Plan showing highway boundary submitted by Wainhomes
- 21 Planning Inspectorate Good Practice Advice Note 16 submitted by Strategic Land Properties
- 22 E-mail from Strategic Children's Services dated 7 August 2012 re education contribution submitted by EDDC
- 23 E-mail from South West Water dated 26 July 2012 submitted by EDDC
- 24 Note re S106 play space costings submitted by EDDC
- 25 Addendum to Statement of Common Ground dated 9 August 2012 re S 106 contributions
- 26 Revised wording for suggested conditions 6 and 10 in Statement of Common Ground
- 27 Closing submissions on behalf of Strategic Land Properties
- 28 Closing submissions on behalf of East Devon District Council
- 29 Closing submissions on behalf of Wainhomes
- 30 Signed Section 106 Undertaking