
Appeal Decision

Inquiry held on 1 and 2 April 2014

Site visit made on 3 April 2014

by John Woolcock BNatRes(Hons) MURP DipLaw MPIA MRTPI

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

Decision date: 13 May 2014

Appeal Ref: APP/W1145/A/13/2207840

Buckleigh Road, Westward Ho!, Devon EX39 1BL

- 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 Mr Simon Cater against Torridge District Council (TDC).
 - The application Ref:1/0251/2013/FULM, is dated 12 March 2013.
 - The development proposed is residential development of 132 units and 126 m² of retail floor space including access, associated engineering works, infrastructure, drainage and landscaping.
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Decision

1. I allow the appeal and grant planning permission for residential development of 132 units and 126 m² of retail floor space including access, associated engineering works, infrastructure, drainage and landscaping at Buckleigh Road, Westward Ho!, Devon EX39 1BL in accordance with the terms of the application Ref:1/0251/2013/FULM, dated 12 March 2013, as amended, subject to the conditions set out in the Schedule of Conditions attached to this decision.

Preliminary matters

2. TDC failed to make a decision on the planning application that resulted in this appeal in the required amount of time. Some minor revisions were made to the drawings submitted with the application, and it is the scheme shown on Planning Layout 10-039-02 Rev E that was undetermined. However, TDC refused an identical application on 29 January 2014, against officer recommendation for approval, because its high density was considered to comprise development out of character with the locality, the site being assessed as rural in nature and bordering open countryside, and that the proposed development lacked adequate formal and informal play areas, so bringing it into conflict with Policies DVT2C, DVT6, DVT7, HSC3 and HSC13 of the Torridge District Local Plan 1997-2011, which was adopted in 2004 (LP).¹ TDC's Plans Committee reviewed this position at a meeting on 27 February 2014 and decided that the reasons given for refusing that application were not defensible, and therefore the Committee reluctantly decided that they would not defend this appeal.² This was the position set out in TDC's revised

¹ CD8.

² ID8. This email erroneously refers to the refusal of application 1/0251/2013/FULM, but I have no doubt that Members were made well aware of what was being discussed.

Statement of Case, and also in the Statement of Common Ground (SoCG).³ This states that TDC and the appellant agree that the proposed development would accord with the *National Planning Policy Framework* (hereinafter the *Framework*) and, with the exception of LP Policies DVT1 and DVT2C, would comply with the adopted LP. TDC's refusal of an identical application is a material consideration in determining this appeal. However, so too is TDC Plans Committee's resolution of 27 February 2014, along with the evidence adduced at the Inquiry. It is the latter that I give most weight to in determining this appeal against the non-determination of application Ref:1/0251/2013/FULM.

3. On application Buckleigh & Cornborough Road Residents' Committee (abbreviated to BCRRC in this decision) was granted Rule 6(6) status pursuant to the Town and Country Planning (Determination by Inspectors) (Inquiries Procedure) (England) Rules 2000. BCRRC participated fully in the Inquiry, opposing the proposed development.
4. A draft unilateral planning obligation was discussed at the Inquiry on 2 April 2014, and a signed and dated version was subsequently submitted on 17 April 2014.⁴ The signed obligation accords with the matters discussed, and as no other representations were received in the period set out for comment, I closed the Inquiry in writing on 1 May 2014.⁵ The obligation provides, on commencement of the development that is the subject of this appeal, for 40% of the dwellings to be affordable housing (53 houses), open space provision, maintenance of surface water drainage, a travel plan, improvements to Fosketh Hill, a welcome and travel pack for occupiers concerning sustainable transport, including cycle vouchers, along with contributions towards public art, education, footways and maintenance of highway trees.

Main issues

5. The main issues in this appeal are the effects of the proposed development on:
 - (a) The character and appearance of the area, having particular regard to its design and density.
 - (b) Housing land supply.

I have also considered the adequacy of local infrastructure and services.

Planning policy

6. LP Policy DVT1 designates Bideford/Northam/Appledore/Westward Ho! as a Principal Centre in the hierarchy of strategic centres, where development would be permissible within defined development boundaries.⁶ The settlement hierarchy indicates that the Principal Centre is the urban area that would accommodate the bulk of new development over the plan period. The appeal site adjoins, but lies outside the development boundary, in the open countryside, where LP Policy DVT2C provides that away from the villages

³ The SoCG was revised at the Inquiry with amended page one at ID15.

⁴ ID2.2.

⁵ The revised obligation amended details about the land owners, changed the percentage of open market value for the initial sale price of intermediate affordable housing, and made technical amendments in relation to commencement. It also deleted all provisions relating to sewers, which it was agreed at the Inquiry could be the subject of a Grampian condition.

⁶ BCRRC and CPRE refer to Westward Ho! as a village, but for the purposes of the LP Westward Ho! is separately identified as a Coastal Resort.

development should not detract from the character and appearance of the area, and the appeal scheme is not a form of development that can be allowed pursuant to the other provisions of this policy. LP Policy HSC1 sets out housing provision for the period to 2011, and states that proposals should provide for a mix of housing to meet a variety of needs. I deal with other relevant LP Policies in the Reasons section of this decision. The *Planning Practice Guidance* (hereinafter the *Guidance*) came into force on 6 March 2014.

7. TDC's *Statement of Five Year Housing Land Supply* provides that TDC cannot demonstrate a five year housing land supply.⁷ There is a dispute about whether a 20% buffer should be applied, but even with a 5% buffer there is no more than 3.17 years supply. Paragraph 49 of the *Framework* provides that housing applications should be considered in the context of the presumption in favour of sustainable development, and that relevant policies for the supply of housing should not be considered to be up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. Therefore, in taking the decision for this appeal, the second bullet point of paragraph 14 of the *Framework* applies. There are no specific *Framework* policies which indicate here that the development should be restricted. I therefore concur with TDC and the appellant that in determining this appeal, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the *Framework* taken as a whole. Some of the more general LP Policies are broadly consistent with the *Framework*, but LP Policies DVT1, DVT2C and the housing provisions of HSC1 are, given that paragraph 14 of the *Framework* applies, out-of-date, and this limits the weight to be accorded to them in determining this appeal.
8. North Devon Council and TDC are working together to prepare a new Local Plan up to 2031 (eLP). A Pre-Publication Draft was consulted on in January-March 2013. The appeal site is proposed for allocation in the eLP, under Policy NOR02, as part of a wider allocation to the west of Buckleigh Road. This site extends to about 11 ha and is allocated for about 150 dwellings and a local centre, including facilities to accommodate community and retail uses. Development principles for the site include an integrated transport network, vehicular access from Buckleigh Road, and highway improvements to Buckleigh Road, along with contribution improvements to the Silford Cross junction. It is anticipated that the eLP would be examined in the spring of 2015. Given the early stage that the eLP has reached, it cannot be given much weight in determining this appeal.

Reasons

Character and appearance

9. The 4.65 ha appeal site is currently open agricultural land, except for a small stable block, and is used for grazing. It is divided into three fields by hedgerows across the site. The appeal site adjoins a part of Westward Ho! that lies on elevated land above the centre of the coastal resort, which is located below the ridge and closer to the sea. The B3236 winds up and down the hill slope between the two parts of Westward Ho! There are also links along Fosketh Hill/Fosketh Terrace and a public right of way that provides pedestrian access between these parts of the settlement.

⁷ CD7.

10. The appeal site is bounded to the north by the rear boundaries of dwellings facing onto Cornborough Road, except where there is a strip of land between the side boundaries of the adjoining dwellings at Nos.11 and 12, which provides gated access to the site from Cornborough Road. To the east, beyond a roadside hedgerow, the site adjoins Buckleigh Road, which is part of the B3236. There is residential development on the other side of Buckleigh Road to the appeal site. Beyond most of the southern boundary of the appeal site, which is again marked by a hedgerow, is a private road serving five detached residential properties. To the west and south-west of the appeal site is open agricultural land.
11. Given the residential development on almost three sides of the appeal site, and because of the influence of the existing built development in the locality, the context for the appeal site has many of the characteristics of an urban fringe area. I do not consider that it is a semi-rural location. In the limited available views from the west of the appeal site, including along Pusehill Road, which in most parts has roadside hedgerows, any parts of the proposed development would be seen in the context of existing buildings in or near to the edge of the built area. Reinforced site boundary planting would further limit views into the appeal site from these vantage points. The proposal would not unduly impact on the appearance of the area from view points located to the west of the appeal site.
12. I note that CPRE objects to the proposal on the grounds that it would have a detrimental visual impact on the landscape.⁸ To some extent, this would be likely to be an inevitable consequence of the development of any open agricultural land. The appeal scheme would change the outlook from some vantage points. However, that does not seem to me to be a consideration here that would rule out the possibility of residential development of the appeal site, especially where it abuts the Principal Centre in the hierarchy of strategic centres. I find no landscape reason to reject the proposal in principle. Much therefore depends in this case on the design and layout of the scheme, and the overall planning balance of the benefits of the scheme, when weighed against any harm.
13. The proposed layout would effectively utilise potential constraints on the layout of a residential scheme, such as available access points, the existing sewer easement which crosses diagonally through the site, along with the existing on-site hedgerows, to focus the development onto the proposed central village green. This landscape strategy would provide the basis for an attractive and distinctive layout.⁹ Widening of Buckleigh Road would require removal of the existing roadside hedgebank. This would have a significant adverse impact on the appearance of the area during the construction phase. However, the proposed replacement hedgebank would, in time, provide an appropriate frontage to the road. Furthermore, the landscaped Multi Use Games Area (MUGA) and attenuation pond, where visible, would be likely to become an attractive feature along this part of the B3236. The landscaped pedestrian and emergency vehicular link between Cornborough Road and the village green, with its associated public open space and Local Area of Play (LAP), would similarly become a significant landscape feature as planting matured. The

⁸ ID5.

⁹ This would be likely to be so even though Plan 3 of the obligation shows that some of the existing hedgerows to be retained in the appeal scheme would be within the curtilage of dwellings and not included within the Open Space Management Scheme.

landscaping scheme proposed would accord with the requirements of LP Policy DVT8. There is no evidence that the MUGA and LAP would be too small to provide appropriate recreation facilities for the occupiers of the proposed 132 dwellings. I find that the proposed provision of open space and play space would comply with LP Policies DVT9 and HSC13.

14. There is local concern about the density of the proposed development. BCRRC argues that the scheme, with an overall density of 28 dwellings per hectare (dph) would be out of keeping with development in the area, and could set a precedent for the density of future development in the locality, especially for the remainder of the NOR02 allocation site in the eLP.¹⁰ However, density by itself is not generally a good indicator of the acceptability or otherwise of the design and layout of development. The wider context here includes residential development with a variety of ages, styles and density. This ranges from detached dwellings on large plots to smaller areas of higher density, such as Buckleigh Grange, which lies opposite the appeal site. The proposed scheme includes a mix of modern estate style dwellings, of traditional design, with a range of materials. The proposed affordable housing would be dispersed around the site. Satisfactory access and parking would be provided as required by LP Policy DVT19. These considerations, along with the proposed open space and landscaping, would result in an acceptable design and layout for this site. I consider that the appeal scheme would appropriately optimise the potential of the site to accommodate development in accordance with paragraph 58 of the *Framework*. The scheme would result in a development that would be locally distinctive, and compatible with its context in terms of design quality, layout and landscaping, and so would comply with LP Policies DVT6 and DVT7. I am satisfied that the proposal would reasonably integrate the development within the surrounding context, and so would accord with LP Policy HSC3.
15. During the construction period local residents could be subject to some noise and disturbance, but this would be for a limited period, and could be minimised by the approval and implementation of a construction method statement. Planning conditions could safeguard trees during construction. I saw on my site visit the tall conifer trees, in the vicinity of Carleton Cottage, that adjoin this part of the southern boundary of the appeal site. These would at times shade areas of the appeal site, but given the separation distance of private amenity space in the proposed nearby plots, along with the orientation of the proposed dwellings, I do not consider that the appeal scheme would result in any unacceptable overshadowing or loss of sunlight. The proximity of the bungalow proposed for plot 82 with the rear of 11 Cornborough Road would not, subject to appropriate boundary treatment, give rise to any undue adverse impact on the residential amenity of either existing or future occupiers. No unacceptable overlooking would result from the proposed roof lights for plots 74-76. With respect to living conditions, I find that subject to the imposition of appropriate planning conditions the scheme would secure and maintain amenity appropriate to the locality in accordance with LP Policy DVT11.
16. Part of the North Devon Area of Outstanding Natural Beauty (AONB) lies some distance to the west of the appeal site, beyond the western extension of Cornborough Road and the built development off Gainsborough Drive. However, given the separation distance and the intervening topography, the appeal scheme would not have any significant adverse effect on views to or

¹⁰ The NOR02 site at 11 ha for 150 dwellings would provide for a gross density of about 14 dph.

from the coastal landscape within the AONB. This is evident from the submitted Zone of Theoretical Visibility, which indicates mostly no visibility or low potential visibility from the AONB.

17. On the first main issue, I find that the proposed design and layout of the scheme would not be out of keeping with the character of the area. The change from open agricultural land to residential development would adversely affect the appearance of the area, but the proposed open space provision and landscaping would, in time, minimise this effect. Nevertheless, the resultant harm to the local landscape would be a matter to be weighed against the benefits of the scheme.

Housing land supply

18. Given the current housing land supply position set out above, this scheme for 132 dwellings would make an important contribution to boosting significantly the supply of housing in the district. The 53 affordable units would make a material difference, given TDC's estimate of a need for 55 affordable units per annum in Westward Ho!
19. In terms of housing mix the appeal scheme proposes 31% two bed dwellings, 52% three bed dwellings and 17% four bed dwellings. This compares to TDC's district wide requirement of 42% one bed, 35% two bed, 14% three bed and 9% four or more bed.¹¹ BCRRC is critical that the proposal would not include any one bed dwellings, and referred to the need for bungalows in the area. However, the proposed two bed housing would provide for some flexibility in how the housing stock was utilised, and I note that the mix was agreed with TDC's housing officer. I find no grounds to reject the proposal because of its housing mix.
20. The proposal would make a significant contribution towards meeting the housing need. The affordable housing would be particularly beneficial, and the obligation would accord with the aims of LP Policy HSC2. The housing mix might not fully accord with the proportions sought overall by TDC. However, taking into account the specific circumstances that apply here, I find no conflict with paragraph 50 of the *Framework*, which requires local planning authorities to plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community. On the second main issue, the housing benefits of the scheme weigh significantly in favour of allowing the appeal.

Local infrastructure and services

21. The accessibility of the site to employment and services was raised in many submissions. There is limited local employment in Westward Ho! and the bus service closest to the appeal site is a circular route operating three times per day. This would not be convenient for all trips, especially journeys to work. However, there is a more frequent service to the larger centres in the area available from the centre of Westward Ho! The shortest pedestrian link between the good range of local facilities available in the centre of Westward Ho! and the appeal site involves some steps, which not everyone could manage. However, this would be a useful route for those who could take advantage of it, especially as it would provide access to more frequent bus

¹¹ CD10.

services, and so would be a reasonable option for journey to work trips. This route utilises part of Fosceth Hill, which is narrow in places, steep, and where drainage or ice is an issue at times. Nonetheless, it was apparent from my site visit that there is scope to improve this as a pedestrian link, and a reasonable prospect that this could be addressed by a planning condition. The safety of pedestrians negotiating the unusual junction at Stanwell Hill/Bay View Road/College Close/Fosceth Hill did not, from my observations at the site visit, appear to be a consideration that would discourage use of this route.

22. There is some local congestion at Abbotsham Primary School at peak times.¹² However, it seemed from my site visit that drivers negotiated the area with some care, and that the congestion was typical of that experienced at many schools. Any additional traffic resulting from the appeal scheme would be unlikely to have a detrimental impact on highway safety. Furthermore, the appeal scheme would contribute £18,000 towards a footway linking Abbotsham Road and Arthurs Lea, which has been identified by the safe routes to school officer. This improvement might enable some local residents to walk rather than use cars for trips to the school.
23. The allocation NOR02 in the eLP indicates a requirement for community uses from the development of the 11 ha site. However, there is nothing to indicate that the appeal scheme, by itself, would require on-site provision of, or a contribution towards, community uses other than those proposed as part of this scheme.
24. The statutory sewerage undertaker expressed reservations about the provisions for off-site foul drainage improvements in the draft obligation. However, it later indicated that planning control by robust Grampian condition would be necessary in the event of a grant of planning permission, to ensure that this development did not proceed in advance of the necessary sewerage infrastructure evaluation and improvements.¹³ The Inquiry heard that the issue here concerns the capacity of pumping stations, but there is nothing to indicate that this is likely to be an insurmountable obstacle to the development proceeding. I have had regard to the various conditions cited at the Inquiry that have been used in other cases to deal with such an issue.¹⁴ The Council and the appellant agreed at the Inquiry that this is a matter that could be addressed by a Grampian condition. I note that the EA has no objection to the proposal. The proposed attenuation pond would control drainage from the site and so could help prevent the local flooding that has occurred in the past in this area. I am satisfied that sewerage and drainage are matters that could in this case be addressed by the imposition of appropriate planning conditions, and so I find no conflict with LP Policy DVT24.
25. Subject to appropriate planning conditions and the provisions in the obligation, the scheme would make adequate provision for infrastructure in accordance with LP Policy DVT16.

¹² ID12.

¹³ ID4.

¹⁴ Including in ID9.

Other matters

26. There is local concern about highway safety. However, the widening of the carriageway along this part of Buckleigh Road to a minimum of 5.5 m using land within the appeal site, along with the proposed footway, would improve an existing pinch-point on the road network. There is no technical evidence to indicate that traffic generated by the appeal scheme would have an unacceptable adverse effect on highway safety elsewhere on the network, and no basis for requiring a contribution from this scheme towards the improvement of Silford Cross. There is no objection from the Highway Authority. I am satisfied that appropriate consideration has been given to the impact of the proposed development on traffic in accordance with LP Policy DVT18. There would be a choice for local residents about how they travelled, and I note that the *Framework* provides that account should be taken of improvements which would limit significant impacts of development, and that development should only be refused on transport grounds where residual cumulative impacts were severe. That would not be the case here.
27. Whether TDC seeks a contribution in accordance with its tourism policy is a matter for the authority.¹⁵ The fact that no request was made in this case would not weigh against the appeal scheme. In any event, I find no conflict with LP Policy ECD7, which presumes against development that would diminish the tourist character of the resort.
28. BCRRC considers the appeal scheme would be piecemeal development that would be at odds with the strategic plan in the eLP for the development of the area, with an integrated approach to highways and service provision. CPRE also considers that no planning consent should be granted unless a comprehensive plan for the area has been publicised.¹⁶ However, there is no particular reason why any overall master plan would be a necessary pre-requirement for the development of the appeal site. Concern has also been expressed about the viability of the scheme given the requirement for off-site improvements to drainage infrastructure.¹⁷ BCRRC questions the weight that can be given to the affordable housing provision in these circumstances, where it believes that the developer may seek to renegotiate this element of the scheme, if in the future it eventuated that development costs jeopardised the viability of the proposal. However, any future amendment to the scheme would be a matter for TDC, and would not be a reason to refuse this scheme, or a factor to weigh against the current proposal.
29. I was referred to the 2001 Local Plan Inspector's findings about this site, which considered that the degree of containment by existing residential development was weak to the south and west. He judged that visually the development of this site would be seen as an expansion of the settlement into the open countryside, and found that future occupiers would be very dependent upon the car. On this basis, he concluded that the site should not be allocated for housing irrespective of what the housing supply position is.¹⁸ However, the Local Plan Inspector's comment must have related to the housing supply position at that time, whereas I am required to determine the appeal in accordance with current policy. I have also had the benefit of considering a

¹⁵ ID7.

¹⁶ CD45.

¹⁷ CD46.

¹⁸ CD49.

detailed scheme for the site in its local context. I do not share BCRRC's view that, in determining this appeal, substantial weight should be given to the comments by the Local Plan Inspector.

30. I have taken into account all the other matters raised in the evidence, including the other appeals to which I was referred.¹⁹ However, none of these appears to be directly comparable with the appeal site in this case. Where decisions turn on matters of the particular effects on the character and appearance of the area it is difficult to give much weight to findings from other locations. Neither these, nor any of the other matters raised, are sufficient to outweigh my conclusions on the main issues, which have led to my decision on this appeal.

Conditions

31. The Council and the appellant suggested conditions that would be acceptable if the appeal were to be allowed. I have considered the need for these and their wording in the light of the advice contained in the *Guidance*.
32. A three year commencement period would be appropriate (Condition 1). Otherwise than as set out in any decision and conditions, or approval pursuant to a condition, it would be necessary that the development be carried out in accordance with the approved plans, for the avoidance of doubt and in the interests of proper planning (Condition 2). Construction hours would need to be restricted (Condition 3) and a Construction Method Statement approved (Condition 4) for amenity reasons. Ecological mitigation would be necessary to safeguard wildlife (Condition 5). Boundary treatment would need to be approved in the interests of the appearance of the area (Condition 6). For similar reasons, a landscaping scheme, including provisions for hedgerows and hedgebanks, would need to be approved, implemented and managed (Conditions 7 and 8). Measures would also be necessary to protect retained trees (Condition 9).
33. Details would need to be approved about access and services, where insufficient details are included in the submitted documentation (Condition 10), and provision made for suitable access during construction and prior to occupation (Conditions 11 and 12). Similarly, details would need to be approved for the provision of play areas (Condition 13). Details of surface water drainage would need to be approved and implemented (Condition 14). Widening of Buckleigh Road would be necessary to enable the development to proceed (Condition 15). Details of off-site foul drainage would need to be approved and implemented prior to the commencement of development for the reasons set out above (Condition 16). The parking spaces for the retail units would need to be reserved for this purpose in the interests of highway safety (Condition 17).
34. External materials would need to be approved in the interests of the appearance of the area (Condition 18). It would be necessary to retain garages and parking areas for highway safety reasons (Condition 19). Restricting the use of the commercial units to retail use would be necessary so as to accord with the description of the proposed development (Condition 20). For accessibility reasons, it would be necessary to secure the implementation of footway improvements to Fosketh Hill, based on the scheme shown on Drawing

¹⁹ Including the appeal at Goodleigh Road, Barnstable where the effect on the setting of listed buildings was an issue, which is not in play in this appeal. [CD54 and ID11]

No.SK/002A (Condition 21).

35. The obligations set out in the undertaking would be necessary to make the development acceptable in planning terms, are directly related to the development, and fairly and reasonably relate in scale and kind to the appeal scheme. I am satisfied that the obligation complies with relevant statutory and policy requirements. There was no dispute about this at the Inquiry.

Conclusions

36. There is considerable local opposition to the proposed development, which is evident from the written representations and the submissions made at the Inquiry, but also some support. One of the aims of national planning policy is to strengthen local decision making.²⁰ However, local opposition or support for a proposal is not in itself a ground for refusing or granting planning permission, unless it is founded upon valid planning reasons. The proposal therefore falls to be determined on its planning merits. I am required to decide this appeal having regard to the development plan, and to make my determination in accordance with it, unless material considerations indicate otherwise. The proposal would conflict with LP Policies DVT1 and DVT2C because the appeal site lies outside the defined settlement boundary. However, the *Framework* is a significant material consideration in this case.
37. The appeal scheme would make a significant contribution to boosting the supply of housing in the District. The affordable housing provision would be particularly beneficial. The change from agricultural land to built development would adversely affect some views. However, matters of design, impact on the local landscape, and the accessibility of services/facilities, do not in this case result in adverse impacts that would be sufficient to significantly and demonstrably outweigh the benefits of the proposal, when assessed against the policies in the *Framework* taken as a whole.
38. The proposed development would conflict with the LP, but the *Framework* is an important consideration which indicates that the appeal should be determined other than in accordance with the development plan. I find that the proposal would be sustainable development to which the presumption in the *Framework* should apply. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

John Woolcock
Inspector

²⁰ National Planning Policy Framework Annex 1: Implementation.

SCHEDULE OF CONDITIONS 1-21

- 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 unless details are otherwise approved in accordance with a specific condition of this planning permission:
 - Location Plan: 10-039-01
 - Planning Layout: 10-039-02 Rev E
 - Landscape Master Plan: WAIN17829/10D
 - LAP Area: WAIN17829 13
 - Detailed Extract: Pond + MUGA: WAIN 18829-14
 - Village Green: WAIN17829 12
 - Preliminary Highway Layout: PHL-101-C
 - Preliminary Drainage Layout: 0038-PDL-101-A
 - Street Scenes, Sheet 1: 10.039-029 Rev A
 - Street Scenes, Sheet 2: 10.039-030 Rev A
 - 2B4P, floor plan / elevations: 10-039/04
 - 2B4P and 3B5P: Render – Brickwork: 10-039/05 and 06
 - Render Option Details: 10-039-32
 - Commercial Units, Plots 98/99: 10-039-03
 - External Finishes Layout 10.039-031 Rev A
 - Garage Details: 10-039-28
 - AWP Typical Construction Details
 - Tree Protection Plan: Rev A
 - Highways Sections, Rev A
 - House Designs Booklet, October 2012 comprising:
 - 3B5P: 10-039/07;
 - 4B6P:10-039/08;
 - Dunham: 10-039/09;
 - Claremont: 10-039/10;
 - Churchill: 10-039/11;
 - Churchill: 10-039/12;
 - Brancaster (wide frontage): 10-039/13;
 - Brancaster (narrow frontage): 10-039/14;
 - Hanbury, Planning Render: 10-039/15;
 - Hanbury, Planning Brick: 10-039/16;
 - Davy (dual aspect wide frontage): 10-039/17;
 - Davy (dual aspect narrow frontage): 10-039/18;
 - Davy (wide frontage): 10-039/19;
 - Davy (wide frontage): 10-039/20;
 - Wren: 10-039/21;
 - Dalton: 10-039/22;
 - Turner: 10-039/23;
 - Haddon: 10-039/24;
 - Edale: 10-039/25;
 - Milton: 10-039/26;
 - Bell: 10-039/27.
- 3) Construction works shall not take place other than between 0730 hrs and 1800 hrs on Mondays to Fridays, Saturdays between 0900 hrs and 1300 hrs and at no time on Sundays and Bank Holidays.

- 4) No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - i. The parking of vehicles of site operatives and visitors.
 - ii. Loading and unloading of plant and materials.
 - iii. Storage of plant and materials used in constructing the development.
 - iv. The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.
 - v. Wheel washing facilities.
 - vi. Measures to control the emission of dust and dirt during construction.
 - vii. A scheme for recycling/disposing of waste resulting from demolition and construction works.
 - viii. The hours of delivery vehicles, having regard to Condition 3.
 - ix. Signage of the preferred route for delivery vehicles.
 - x. Provision of an area for refuse storage for the occupants of the dwellings.
- 5) Prior to the commencement of development on-site an ecological mitigation scheme based upon the recommendations provided in the ecological appraisal accompanying the application, including a timetable for the implementation of the scheme, shall be submitted to and approved in writing by the local planning authority. The scheme shall be carried out as approved and any works approved to be retained shall thereafter be retained at all times.
- 6) Prior to the commencement of development full details of boundary treatment to the dwellings hereby permitted shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented, capable of use prior to the dwellings being occupied and shall thereafter be retained at all times.
- 7) Notwithstanding the landscape master plan submitted, no development shall take place until full details (including species, type and size at time of planting) of all proposed tree planting, landscaping and the proposed times of planting, have been approved in writing by the local planning authority. The approved details shall be implemented in accordance with the approved scheme and at those times specified. If within a period of five years from the date of the planting of any tree, that tree, or any tree planted in replacement for it, is removed, uprooted, destroyed, dies or becomes seriously damaged or defective another tree of the same species and size as that originally planted shall be planted at the same place, unless the local planning authority gives its written consent to any variation.
- 8) Prior to commencement of development, full specifications for the provision of hedgerows and Devon hedgebanks in and around the site, including a management plan, shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented prior to occupation of the dwellings hereby permitted and the hedgerows and Devon hedgebanks shall thereafter be retained and managed in accordance with the approved details.

- 9) Prior to the commencement of any development hereby permitted and before any equipment, machinery or materials are brought onto the site for the purposes of the development hereby permitted, details of the specification and position of the fencing for the protection of any retained tree/group of trees shall be submitted to and approved in writing by the local planning authority. The works shall be carried out as approved and the fencing shall be erected prior to the commencement of any of the development hereby permitted and shall be maintained until the development has been completed and all equipment, machinery and surplus materials have been removed from the site.
- 10) Notwithstanding the approved plans, the proposed widening of Buckleigh Road, the estate road, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, road maintenance/vehicle overhang margins, embankments, visibility splays, accesses, car parking and street furniture shall be constructed and laid out in accordance with details to be approved in writing by the local planning authority before their construction begins. For this purpose, plans and sections indicating the design, layout, levels, gradients, materials and method of construction shall be submitted to the local planning authority.
- 11) No part of the development hereby approved, other than the works set out in A to D below, shall be commenced until:
 - (A) The access road has been laid out, kerbed, drained and constructed up to base course level for the first 20.00 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 Condition 10 laid out.
 - (C) The footway on the public highway frontage required by Condition 10 has been constructed up to base course level.
 - (D) The site compound and car park have been constructed.

Conditions continue on next page -

- 12) The occupation of any dwelling hereby permitted shall not take place until the following works have been carried out:
- (A) The 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 cul-de-sac footways and footpaths which provide that dwelling with direct pedestrian routes to an existing highway maintainable at public expense have been constructed up to and including base course level.
 - (C) The cul-de-sac visibility splays have been laid out to their final level.
 - (D) The street lighting for the cul-de-sac and footpaths has been erected and is operational.
 - (E) The car parking and any other vehicular access facility required for the dwelling by this permission have been completed.
 - (F) The verge and service margin and vehicle crossing on the road frontage of the dwelling have been completed with the highway boundary properly defined in accordance with the details approved by Condition 10.
 - (G) The street nameplates for each cul-de-sac have been provided and erected.
- 13) Prior to commencement of development the detailed design of the Local Area of Play and Multi Use Games Area, including their means of enclosure, shall be submitted to and approved in writing by the local planning authority. These facilities shall be implemented in accordance with the approved details and be made capable of use in accordance with a timetable for the development, which shall have previously been submitted to and approved in writing by the local planning authority.
- 14) Full details of the means of disposal of the surface water together with details of any landscaping and management of SUDs features and interim drainage measures during the construction period shall be submitted to and approved in writing by the local planning authority prior to the commencement of the development. The approved details shall be implemented prior to the development being brought into its intended use (or as otherwise approved in writing by the local planning authority in a timetable) and shall thereafter be retained.
- 15) No other development shall take place on site until the highway works for the widening of Buckleigh Road to a minimum carriageway width of 5.5 m, as approved by Condition 10, has been constructed and made available for use.
- 16) Prior to the commencement of development, full details of the off-site works required by the development hereby permitted to upgrade the foul drainage system in the area shall be submitted to and approved in writing by the local planning authority. These works shall be implemented in accordance with the approved details prior to the commencement of any development on the site.

- 17) The eight parking spaces as shown on the approved plans to serve the proposed retail units shall be implemented and capable of use prior to the first occupation of the retail units. This parking shall be set aside for visitors to these retail units and used for no other purpose.
- 18) Notwithstanding the details submitted, prior to their installation, details (and/or representative samples) of the colour and texture of the facing and roofing materials to be used in the construction of the proposed development shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented before the development hereby permitted is brought into use and shall thereafter be retained.
- 19) The garages and parking areas indicated on the approved plans shall be retained for the parking of vehicles at all times.
- 20) The premises identified on the approved plans as a local centre with commercial/retail units shall be used for Class A1 retail use and for no other purpose (including any other purpose in the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).
- 21) No development shall commence until the details of a scheme for a footway along Fosceth Hill, which shall be based on Drawing No.SK/002A, has been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented and capable of use prior to the first occupation of any of the dwellings hereby permitted, and the footway shall be retained thereafter.

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Peter Wadsley
of Counsel

Instructed by the Solicitor for TDC.

He called

Cheryl Stansbury BSc(Hons) MA
MRTPI Grad CIEEM

Planning Executive.

FOR THE APPELLANT:

Sasha White QC

Instructed by Emery Planning Partnership.

He called

Colin Pullan BA(Hons) DipUD

Senior Associate Director of Nathaniel Lichfield and Partners.

Clare Brockhurst BSc DipLA FLI
Ian Awcock CEng MICE MIHT
MCIWEM

Founding partner Tyler Grange.
Director of Awcock Ward Partnership.

Stephen Harris MRTPI

Director of Emery Planning Partnership.

Simon Cater participated in the
discussion on conditions

Wainhomes (South West) Holdings.

FOR RULE 6(6) PARTY Buckleigh & Cornborough Road Residents' Committee:

John Stockdale
Retired solicitor and Deputy
District Judge

Representing Buckleigh & Cornborough Road
Residents' Committee.

He called

John Stockdale

Local resident and Chairman Buckleigh &
Cornborough Road Residents' Committee.

Cllr Roger Tisdale

District Councillor.

Cllr Christopher Leather

District Councillor and Member of Plans
Committee.

INTERESTED PERSONS:

Steven Callard

Chairman of Westward Ho! Residents' Association
and member of Devon Highway Traffic
Management Committee.

Helen Reynolds

Landowner of part of the appeal site.

Shaun Doherty

Local resident.

Peter Clarridge

Local resident.

Local residents asked questions of opposing witnesses and joined in the discussion about suggested planning conditions.

DOCUMENTS SUBMITTED AT THE INQUIRY (ID)

Document	1	Opening submissions on behalf of the appellant.
Document	2.1	Draft planning obligation by undertaking [unsigned and undated]
	2.2	Planning obligation by undertaking dated 17 April 2014.
Document	3	<i>Planning Obligations</i> Supplementary Planning Document, November 2008 TDC.
Document	4	Letter dated 31 March 2014 from Pennon Group on behalf of the Statutory Sewerage Undertaker.
Document	5	Letter from CPRE dated 9 March 2014.
Document	6.1	Devon County Council note on education contribution.
	6.2	<i>Education Section 106 Infrastructure Approach</i> , Devon County Council.
Document	7	Note from TDC concerning LP Policy ECD7 and £1,000 per dwelling tourism contribution.
Document	8	Email from Chair of Plans Committee to Development Enabling Manager dated 1 April 2014 concerning the meeting held on 27 February 2014.
Document	9	Appeal Ref:APP/U1105/A/12/2172708.
Document	10	Proposed Fosceth Hill Improvements, Drawing SK/002A.
Document	11	Site and location plan for Goodleigh Road appeal.
Document	12	Location plan for Abbotsham Primary School.
Document	13	Suggested conditions.
Document	14	Closing speech of the appellant.
Document	15	Revised page one of SoCG.

CORE DOCUMENT LIST (CD)

1. Adopted Torridge District Local Plan 2004
2. Secretary of State's Proposed Changes to the draft RSS July 2008
3. North Devon and Torridge Local Plan - Pre January 2013
4. Committee Report 3 October 2013
5. Committee Report 23 January 2014
6. Statement of Five Year Housing Land Supply December 2013
7. Strategic Housing Land Availability Assessment 2011
8. Decision Notice 1/1082/2013/FULM dated 29 January 2014
9. draft National Planning Policy Guidance (not enclosed)
10. North Devon and Torridge Strategic Housing Market Assessment 2012
11. Westward Ho! Area Design Statement 2008
12. Ecological Assessment: WAIN17829Ph2
13. Landscape Design Statement: WAIN17829des
14. Landscape Master Plan: WAIN17829/10D
15. Landscape and Visual Impact Assessment: WAIN17829 LVIA Rev A
16. LAP Area: WAIN17829 13
17. Detailed Extract: Pond + MUGA: WAIN 18829-14
18. Village Green: WAIN17829 12
19. Preliminary Highway Layout: PHL-101-C
20. Preliminary Drainage Layout: 0038-PDL-101-A
21. Design and Access Statement, December 2012
22. Location Plan: 10-039-01
23. Planning Layout: 10-039-02 Rev E
24. Street Scenes, Sheet 1: 10.039-029 Rev A

25. Street Scenes, Sheet 2: 10.039-030 Rev A
26. 2B4P, floor plan / elevations: 10-039/04
27. 2B4P and 3B5P: Render – Brickwork: 10-039/05 and 06
28. Render Option Details: 10-039-32
29. Commercial Units, Plots 98/99: 10-039-03
30. External Finishes Layout 10.039-031 Rev A
31. Garage Details: 10-039-28
32. House Designs Booklet, October 2012 comprising:
 - 3B5P: 10-039/07;
 - 4B6P:10-039/08;
 - Dunham: 10-039/09;
 - Claremont: 10-039/10;
 - Churchill: 10-039/11;
 - Churchill: 10-039/12;
 - Brancaster (wide frontage): 10-039/13;
 - Brancaster (narrow frontage): 10-039/14;
 - Hanbury, Planning Render: 10-039/15;
 - Hanbury, Planning Brick: 10-039/16;
 - Davy (dual aspect wide frontage): 10-039/17;
 - Davy (dual aspect narrow frontage): 10-039/18;
 - Davy (wide frontage): 10-039/19;
 - Davy (wide frontage): 10-039/20;
 - Wren: 10-039/21;
 - Dalton: 10-039/22;
 - Turner: 10-039/23;
 - Haddon: 10-039/24;
 - Edale: 10-039/25;
 - Milton: 10-039/26;
 - Bell: 10-039/27.
33. Archaeological Desk Based Assessment
34. Arboricultural Constraints Report: Rev A
35. Tree Protection Plan: Rev A
36. Flood Risk Assessment, October 2012
37. Highways Sections, Rev A
38. Transport Assessment
39. Planning Statement: PS1-7815-SH
40. Statement of Community Involvement
41. Heads of Terms Rev A
42. Draft Planning Obligation submitted via email on 18 July 2013
43. AC Archaeology Trench Evaluation
44. AWP Typical Construction Details
45. Letter from CPRE to Torridge District Council dated 30 September 2013
46. Letter from CPRE to Torridge District Council dated 17 January 2014
47. The Regional Strategy for the South West (Revocation Order) 2013
48. Notice of Refusal for Application No 1069/1987 dated 8 September 1987
49. Extract from Local Plan Inspectors Report re Site WHO2 - 2001
50. Minutes of Plans Committee Meeting on 23 January 2014
51. Letter from Mrs Kate Little to Squadron Leader Martin MBE, 17 January 2014
52. Planning Obligations Supplementary Planning Document 17 November 2008
53. Extract from Bus Timetable re Bus Route No: 16A
54. Appeal Decision of Planning Inspectorate Ref: APP/X1118/A/12/2182606 re: land off Goodleigh Road, Barnstaple