



Appeal Decision

Inquiry opened on 17 June 2014

Accompanied site visit made on 19 June 2014

by I Jenkins BSc CEng MICE MCIWEM

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

Decision date: 22 August 2014

Appeal Ref: APP/K1128/A/13/2210602

Allocated site K5, West Alvington Hill, Kingsbridge, Devon

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Michael Manisty against the decision of South Hams District Council.
 - The application Ref 28_59/1232/13/O, dated 19 April 2013, was refused by notice dated 1 August 2013.
 - The development proposed is the erection of up to 82 dwellings, 0.7 hectares of employment land (use class B1/B2), 2 no. vehicular accesses, open space, play provision and drainage.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The planning application the subject of this appeal is in outline, with all detailed matters, except access, reserved for future consideration.
3. During the course of the Inquiry it came to the appellant's attention that the western edge of the appeal site included a small area of land not within his ownership. In order to address this matter the appellant submitted revised drawings, which omitted that small area from the appeal site. They are drawing nos. BRS.2673_36-3 Site Location Plan and BRS.2673_16L Indicative Masterplan. He requested that those revised drawings form the basis of the determination of the appeal, in place of application drawing nos. BRS.2673_36-2 Site Location Plan and BRS.2673_16K Indicative Masterplan. There were no objections to this request from those present at the Inquiry. In my judgement, it is unlikely that the small area of land in question would be critical to the delivery of the proposed development. I have no reason to believe that anyone's interests would be prejudiced by my determining the appeal on the basis of the revised drawings and therefore, I have done so.
4. On the final day of the Inquiry, a resident of Norden House indicated that sections of the northern and northeastern 'red lined' boundary of the appeal site do not accurately follow the boundary between his and the appellant's land, and as a result some small areas within the title of this neighbouring resident fall within the appeal site. This was disputed in turn by the appellant.

In my judgement, this is not a matter to be resolved by the planning regime; it is a legal matter, which would require separate resolution. The resident of Norden House who raised this matter was present at both the Inquiry and the accompanied site visit, and he was given the opportunity to put his views to me concerning the merits of the appeal proposal. Under these circumstances, I am content that, even if he is correct concerning land ownership, his interests have not been prejudiced by not being identified as a relevant landowner on the planning application form and notified as such.

5. I have taken into account the agreement presented in evidence between the appellant and both the Council and Devon County Council pursuant to section 106 of the *Town and Country Planning Act, 1990* (S106 agreement).

Applications for costs

6. At the Inquiry, the Council and the appellant each confirmed that they wished to make a cost application against the other. As there was insufficient time to hear the related submissions within the period allocated for the Inquiry, I agreed to accept the cost applications after the close of the Inquiry. There were no objections to that approach from anyone present at the Inquiry. An application for costs has since been made by the appellant against the Council and another made by the Council against the appellant. Those applications are the subject of separate decisions.

Main Issues

7. I consider that the main issues in this case are: the effect of the proposal on the character and appearance of the local landscape and the South Devon Area of Outstanding Natural Beauty (AONB); and, whether the scheme would amount to sustainable development under the terms of the *National Planning Policy Framework* (the Framework).

Reasons

Background

8. The appeal site comprises in part allocated site K5, the subject of Proposal K5 set out in the Council's SADPD¹, which indicates that mixed use development is proposed by 2016, to include: about 75 dwellings and 0.5 hectares of employment land; about 0.1 hectares of play provision and 0.25 hectares of other public open space; cycle and footpath provision; and, strategic landscaping to address the site's scale and prominence. In keeping with those requirements, the proposal would make provision for, amongst other things: 82 dwellings; and, the transfer of 0.7 hectares of serviced land capable of employment use to the Council, secured by the S106 agreement.
9. SADPD Proposal K5 also identifies that development of site K5 should accord with a Masterplan previously approved by the Council. The appellant engaged with the Council's Masterplan process, as set out in its *Masterplan Supplementary Planning Document* (SPD), and made a submission for approval. However, it was not formally considered by the Council, who subsequently revoked its SPD in favour of pre-application discussions. The preparation of the Masterplan provided significant opportunities for community engagement, which informed the application the subject of the

¹ The Kingsbridge Site Allocations Development Plan Document, February 2011.

appeal and under the circumstances, the Council and appellant agree that the absence of an approved Masterplan, although technically contrary to the requirements of SADPD Proposal K5, would not be sufficient to justify withholding planning permission in this case. I have no compelling reason to take a contrary view.

10. The appeal site, which comprises for the most part two grassed fields, is situated at the edge of Kingsbridge, with urban development to the northeast, southeast and south. The site is: set back from the northern side of West Alvington Hill beyond a public footway; and, the two fields are separated from one another by Norden Lane. The eastern field and the eastern section of the western field, together with the adjoining section of Norden Lane, comprise allocated site K5. The section of the western field to the west of the boundary of site K5 falls within the countryside.
11. The appellant has indicated that in order to accommodate all of the development identified by SADPD Proposal K5 within the site K5, the density of residential development required would be around 100 dwelling per hectare. This would be significantly higher than elsewhere in the locality as well as the density suggested by the Council's *Strategic Housing Land Availability Assessment, March 2009* (SHLAA), for the eastern and western fields, which ranged from around 25² to 50³ dwellings per hectare. The appellant estimates that it would be likely to necessitate the provision of 5-storey apartment blocks in an area where residential development is generally characterised by houses of up to 3-storeys. Against this background, the Council and appellant agree that it would be likely to result in an incongruous form of development, harmful to the character and appearance of the locality and the AONB. The Council has indicated it is unlikely that planning permission would be granted for such a scheme. Even if it were, the appellant has suggested that it would not be economically viable to implement it, not least due to the cost associated with the retaining structures that would be necessary to accommodate a high density of development on the steeply sloping site. Based on the evidence presented, it appears therefore that there is no prospect of site K5 being developed in strict accordance with SADPD Proposal K5. Under these circumstances, I see little merit in using an assessment of the likely impact of such a development on the character and appearance of the locality and the AONB as a benchmark against which to gauge the merits of other schemes, such as the appeal proposal. Consequently, I give little weight to the appellant's view that the appeal proposal would be far superior in comparison with confining the development set out in SADPD Proposal K5 to site K5.
12. To my mind, if development is to proceed, the implications are that either the quantity of development provided by site K5 would need to be reduced below the level identified by SADPD Proposal K5 or the site would need to be extended. The proposal pursues the latter approach.

The effect of the proposal on character and appearance

13. The western boundary of the site K5 broadly follows a line drawn between the western end of Alvington Terrace, to the south of the site, and Norden House, to the north of the site. However, it does not follow any clear features on the ground within the site. The SADPD indicates that where the boundary of a

² SH_28_20_08 - 30 dwellings/1.19 hectares.

³ SH_28_20a_08 - 60 dwellings/1.19 hectares.

proposed site does not follow a clear feature on the ground or where more detailed investigations demonstrate the case, the Council will be prepared to be flexible in its interpretation.

14. The site is located within *Devon Character Area DCA49*, as defined by Devon County Council's *Devon Landscape Character Assessment (DLCA)*. The DLCA strategy for DCA49 includes: planning to enhance and restore rural character and tranquillity, through careful siting of any new development avoiding prominent locations, such as valley sides; and, protection of the landscape setting of Kingsbridge and the settlement pattern of nucleated villages, which include West Alvington. Parts of West Alvington form part of DCA04, in relation to which the strategy includes resisting coalescence of settlements. The appeal site also falls within Landscape Character Type 2C (LCT 2C), as defined by the Council's *Landscape Character Assessment 2007*. Characteristics of LCT 2C include: steep undulating slopes and hills, with small narrow valleys; regular but very variably sized fields, which are predominantly grassland, with hedgerow boundaries and some hedgerow trees; and, occasional large settlements, which include Kingsbridge. Much of the appeal site's surroundings also fall within the AONB, with the exception of the northern section of Kingsbridge, which adjoins the northeastern boundary of the site. Section 85 of the Countryside and Rights of Way Act 2000 requires decisions on development proposals to have regard to the purpose of conserving and enhancing the natural beauty of AONBs. The *South Devon Area of Outstanding Natural Beauty Management Plan 2014-2019 (MP)* identifies the special qualities of the AONB. Those of particular relevance in this case include the rural rolling patchwork agricultural landscape and the variety in setting to the AONB formed by, amongst other things, a coastal town; Kingsbridge in this case.
15. At the Site Allocation Development Plan Documents Publication Stage the *Sustainability Threshold Assessment of Development Site Options 2010 (STA)* indicated that, in relation to a large part of the appeal site, possible sustainability issues relating to visual impact and landscape character may be associated with development. Furthermore, in light of the AONB designation, mitigation may be problematic.
16. The boundaries of the appeal fields are enclosed for the most part by hedgerows and some trees. The fields are part of a steeply sloping, northeast facing valley side on the edge of Kingsbridge. In my judgement, the appeal site falls within the pastoral landscape which the MP and LCA identify between them as being characteristic of the AONB and the locality, and which the DCA guidelines seek to safeguard. The proposal would result in the loss of a substantial and prominent area of pasture to built development, to the detriment of the character and appearance of the local landscape and that of the AONB.
17. Whilst the proposal would extend Kingsbridge towards West Alvington, a gap in the form of a sports field and an agricultural field would remain between the site and that village. In my view, the scheme would not result in coalescence between the two settlements or an impression of coalescence when the site is viewed from the vantage points drawn to my attention.
18. The southern boundary of the western appeal site field is separated from the adjacent *public footpath 2 (FP2)* by post and rail fencing, and the strip of land

between the footpath and West Alvington Hill, which is at a lower level, contains a hedgerow and trees, which lessen the effect of passing traffic on the footpath environment. The footpath currently provides an elevated vantage point (LVIA1) from which the northern section of Kingsbridge can be seen with extensive views of the countryside to the west of it. To the north of the site, across the narrow valley floor, the predominantly pastoral landscape to the west of Kingsbridge rises up gradually towards a more rounded and gently undulating topography. This vantage point allows the scenic beauty of the AONB to be appreciated from a location close to Kingsbridge.

19. Given the outline nature of the planning application the subject of this appeal, a full assessment of the likely visual impact of the proposal cannot be carried out at this stage. I am also conscious that the scheme would include some landscaping which would tend to soften the impact of built development over time. Nonetheless, based on the evidence presented, I consider it likely that the valuable views from FP2 across the site towards open countryside to the west of Kingsbridge would be largely, if not entirely, obscured by the proposal, giving rise to a major⁴ adverse effect.
20. *Public footpath 3* (FP3) runs along Norden Lane from West Alvington Hill and then alongside the northern boundary of the western appeal site field. Norden Lane is flanked by Devon banks topped by hedgerows and consequently development within the appeal site would be unlikely to have a significant effect on views from that section of footpath. However, there are more open views up across the western appeal site field from the section of the footpath immediately adjacent to its northern boundary (SHDC1). This section of footpath has a tranquil countryside character due to the rising ground of the appeal site to the south and planting along its northern side. I agree with the Council that the proposed built development would be likely to urbanise and loom over this section of footpath. In my view, it is likely that the adverse effect of the proposal when viewed from SHDC1 would be substantial.
21. To the north of the site, on the opposite side of the valley, *public footpath 6* (FP6) crosses fields to the west of Kingsbridge. From that footpath (LVIA3) the appeal site is clearly visible and it makes a substantial contribution to the countryside setting of Kingsbridge. The extent to which that setting can be appreciated would be diminished by the proposal, which would be likely to have the appearance of a significant extension of built development across a prominent valley side. However, FP6 runs alongside site K1 and the development of that site would reduce the sensitivity of users of the footpath. Consequently, I consider that the appeal scheme would be likely to have only a moderate adverse impact when viewed from LVIA3.
22. The western appeal site field makes a notable contribution to the extent to which the scenic beauty of the AONB can be appreciated from the churchyard to the rear of St Edmond's Church, which is situated within the heart of Kingsbridge. The proposed residential development, which would extend beyond the western boundary of K5 and onto higher ground, would have a substantial adverse effect on views from that churchyard within which the public have access to seating.
23. I conclude overall that the extension of built development beyond the bounds of site K5, as proposed, would be likely to have a substantial adverse effect on

⁴ On a scale of significance ranging from negligible-slight-moderate-substantial-major.

the character and appearance of the local landscape. Furthermore, the Framework indicates that great weight should be given to conserving landscape and scenic beauty in Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty. Due to the undulating topography, views of the site and the impact of the proposal from a wider area would be limited. Therefore, the proposal would have a limited, although notable, adverse impact on the character and appearance of the AONB. The scheme would conflict with the aims of CS⁵ Policy CS9 and DPD⁶ Policy DP2. Insofar as these policies require account to be taken of the character of the countryside and promote conservation of the scenic beauty of the AONB they are consistent with the aims of the Framework. This weighs heavily against the proposal.

Sustainable development

24. The Framework indicates that planning permission should be refused for major developments in designated areas such as the AONB except in exceptional circumstances and where it can be demonstrated to be in the public interest.
25. Site K5 is allocated for development and falls within the development boundary for Kingsbridge under the terms of the SADPD. Nevertheless, in my view, this would not justify discounting the element of the appeal scheme that would fall within site K5 from the consideration of whether the proposal would amount to major development in the AONB, as the whole of the appeal site, including site K5, falls within the AONB. I have had regard to appeal decision Ref. APP/F1610/A/12/2173305, in which the Secretary of State found that the erection of 39 dwellings would not amount to 'major development' in the Cotswolds AONB for the purposes of the Framework. However, the circumstances in the case before me are materially different. I agree with the Council that the proposal, which would include: the erection of up to 82 dwellings; 0.7 hectares of employment land (use class B1/B2); 2 no. vehicular accesses; open space; play provision; and, drainage, would amount to major development in the AONB.
26. The Framework indicates that consideration of applications for major development in an AONB should include an assessment of a number of factors. These are: the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy; the cost of, and scope for, developing elsewhere outside the designated area, or meeting the need for it in some other way; and any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which it could be moderated.

Need

Provisions of the SADPD

27. The SADPD identifies a need for development and allocates site K5 for that purpose. However, the Council has indicated that it would be willing to consider a reduction in the number of dwellings from that identified by SADPD Proposal K5, mindful that this may be necessary in order to deliver an appropriate scheme design within site K5. In my view, the reduction necessary for that purpose would be likely to exceed the flexibility implied by the

⁵ The South Hams Local Development Framework Core Strategy, December 2006.

⁶ The South Hams Local Development Framework Development Policies Development Plan Document, July 2010.

phraseology of SADPD Proposal K5; that is 'about' 75 dwellings, which the Council and appellant suggest could reasonably be interpreted as 75 +/- 10%. Nonetheless, in my judgement, that is not the end of the matter. The appellant argues that the land use budgets for allocation sites K5 and K1 should not be considered in isolation from one another. In my view, there is some merit in this argument, given that the allocations are cumulatively intended to meet the needs of Kingsbridge. In this context, the appellant points out that the proposed employment land provision at site K5, which would exceed that set out in SADPD Proposal K5, would partly compensate for the shortfall in provision made by the planning permission for site K1 relative to SADPD Proposal K1. At the Inquiry an interested party suggested that a similar approach could be applied to housing. The planning permission Ref. 28/1244/1/O granted for the development of site K1 makes provision for 85 dwellings as well as 50 extra care units, which the Council and appellant confirmed at the Inquiry would qualify as a contribution to housing supply under the terms of the PPG⁷. That is a total of 135 units, 35 more than the minimum of 100 dwellings required by SADPD Proposal K1.

28. I understand that the Council and appellant are currently 'at loggerheads' concerning the question as to whether the appellant has a right to access his K1 site over an accessway owned by the Council. However, I have not been provided with any compelling evidence to show that, as a result, planning permission Ref. 28/1244/1/O is now unlikely to be implemented. If the appellant is correct that a right of access exists, the development could proceed. If he is wrong, the Council has suggested the appointment of an independent arbitrator to move the matter forward.
29. Given the number of housing units approved for delivery on site K1, in my judgement there is scope for providing significantly less than 75 dwellings within site K5 while still complying with the aims of the SADPD, in terms of meeting the needs of Kingsbridge, and causing less harm to the landscape, even if not strictly meeting the requirements of SADPD Proposal K5. I understand that this is not something that the appellant has explored with the Council.

Housing land supply

30. However, the Framework indicates that to boost significantly the supply of housing, local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide 5 years worth of housing against their housing requirements with an additional buffer of 20%, where there has been a record of persistent under delivery, which the Council acknowledges is the case here. Furthermore, relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
31. The latest position statement on this matter published by the Council is the *Housing Position Statement March 2014* (HPS). It indicates that for the purposes of calculating and monitoring housing land supply the Council disaggregates the District into 2 areas: the South Hams part of the Plymouth Principal Urban Area (PPUA); and, the rural South Hams (rSH), within which the appeal site is located. In relation to the rSH, the HPS suggests that the Council is able to demonstrate 5.1 years of supply; that is the equivalent of 62

⁷ ID 2a-021.

- dwellings more than a 5 year supply relative to its housing requirement, including a 20% buffer. However, a number of the assumptions upon which this is based are disputed by the appellant, who maintains that the supply falls short of the Framework requirement.
32. I deal first with the calculation of the Council's housing requirement, before turning to the supply of specific deliverable sites. The housing land requirement for rSH up to 2016 is contained within the *South Hams Local Development Framework Core Strategy* adopted in 2006 (CS). It identifies a requirement for 4,600 units in the period 2001-2016, which is equivalent to 307 dwellings per annum. Pending the production of a new Local Plan, which is underway, this requirement is the basis upon which the Council assesses past performance and its requirements over the next 5 years; a starting point not disputed by the appellant.
33. Due to under delivery, a backlog against this requirement has accumulated since 2001. The Planning Practice Guidance (PPG) indicates that local planning authorities should aim to deal with any undersupply within the first 5 years of the plan period where possible. Against this background, in my judgement, it is reasonable to regard the backlog as part of the housing requirement for the next 5 years.
34. The HPS housing requirement calculation is based on making up only a proportion of the backlog, around 1000 dwellings (200 units per annum), within 5 years, rather than the full 1200 dwelling under supply in the period 2001 to 2013. The Council argues that this is appropriate as delivery rates are expected to increase in the future. To my mind, speed of delivery is a factor that is likely to be taken into account when determining the supply of specific deliverable sites. Reducing the requirement as suggested risks double counting that factor. I agree with the appellant therefore, that it is not appropriate to discount part of the backlog for this reason when assessing the housing requirement. It follows that the backlog increases the housing requirement by 240 dwellings per annum, rather than 200 as argued by the Council. Therefore, the housing requirement is 547 dwellings per annum (240+307), as opposed to the 507 figure that flows from the Council's position.
35. In order to inform the production of a new Local Plan, the Council commissioned a *Strategic Housing Market Needs Assessment, 2013* (SHMNA). It identifies a number of different delivery requirements for housing based on various scenarios. These hypothetical dwelling requirements for the period 2011-2031 range from 189 to 752 dwellings per annum.
36. The figure of 189 is based on a 2010 sub-national population projection (SNPP) scenario. The differences between the 2010 and 2012 population projection figures for the District are not significantly different. However, the Council acknowledged at the Inquiry that the SHMNA would need to be reviewed in light of the recently published PPG, which highlights that consideration should be given to factors affecting local demography and household formation rates that are not captured by past trends. Factors of particular relevance in this area include that household formation may have been suppressed by under supply of housing and worsening affordability. In this context, it appears to me that the SNPP scenario output is likely to be unduly low.
37. The upper end of the range, 752 dwellings per annum, is based on high levels of economic growth, including an estimate of around 658 new jobs per annum.

- The HPS suggests that this is unlikely to be achieved in the District and I have no reason to believe otherwise. A mid-range value of 491 units per annum arises from an employment led scenario, which includes an annual level of job creation (294) slightly lower than that which has been seen in the district over the period 2001 to 2010 (330).
38. Against this background, I consider that the Council's continued use in the short term of 307 dwellings per annum to judge past performance and future requirements, and a resulting requirement of 547 dwellings per annum, to be reasonable.
39. The Framework indicates that a 20% buffer should be added to the Council's housing requirement. I see no merit in the Council's argument that the 20% buffer should be calculated on the basis of a requirement figure from which the provision for undersupply has been deducted (307×0.2). The requirement, 547 dwellings per annum, plus buffer ($547 \times 0.2 = 109$) would equate to 656 dwellings per annum and 3,280 dwellings over 5 years, rather than the figure of 568 dwellings per annum ($307 \times 0.2 + 200$) and 2,840 dwellings over 5 years used in the HPS.
40. I turn now to consider the supply of specific deliverable sites. The HPS identifies a total supply of 2,902 dwellings over 5 years, which is made up of sites with planning permission/under construction (1,101), allocated sites (1,151) and a windfall allowance (650). This falls short of the requirement figure of 3,280 identified above. However, the Framework only supports an allowance being made for windfall sites if the Council has compelling evidence that such sites have consistently become available in the local area and will continue to provide a reliable source of supply. No such compelling evidence has been provided. The information contained in the Council's SHLAA is dated, covering the period 2003/04 to 2007/08 and whilst the HPS acknowledges that windfall completions have fallen in recent years, the data has not been supplied. No compelling evidence has been provided to show that windfalls will provide a reliable source of supply in the future. Under these circumstances, I give that element of supply claimed by the Council little weight. Even if the requirement figure of 2,840 identified by the HPS were to be used, rather than the figure I support above, a relatively small reduction in the windfall allowance would result in the supply falling short of the requirement.
41. I consider overall that the Council has failed to demonstrate a 5 year supply of deliverable housing sites in relation to the rSH part of the District. Furthermore, there is no dispute that if the assessment were to be based on the whole District, including the associated part of the PPUA, the Council could not demonstrate a 5 year supply. The proposal would make a notable contribution towards meeting the shortfall in housing land supply in the District, providing a social benefit that weighs significantly in favour of the scheme.⁸ Furthermore, in the absence of a 5 year supply, it follows that relevant policies for the supply of housing, which include SADPD Proposal K5, should not be considered up to date. The Framework indicates that where relevant policies are out of date, planning permission should be granted unless, amongst other things, specific policies in the Framework, such as those relating to Areas of Outstanding Natural Beauty or designated heritage assets, indicate that development should be restricted.

⁸ Appeal decision Refs. APP/U1105/A/13/2191905, 2197001 and 2197002, APP/K1128/A/12/2179204.

Affordable Housing

42. CS Policy CS6 indicates that new residential development should provide Affordable Housing and the level of provision should be informed by a number of factors. The S106 agreement secures the provision of 30% of the proposed dwellings as Affordable Housing. The proposed level of provision has been informed by factors such as the difficult topography of the site, the likely lack of availability of grant funding and the cost of other planning obligations. Having regard to the evidence before me, I am satisfied that this obligation is necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development. The reasoned justification for CS Policy CS6 identifies that the provision of affordable housing to help meet the needs of the District's local communities is the Council's top corporate priority. Under these circumstances, the proposed provision of Affordable Housing would also amount to a significant social benefit.

Economic benefits

43. I acknowledge that, in general terms, economic benefits are likely to be associated with the provision of housing and ensuring an adequate supply of employment land. The Framework promotes the need to support economic growth. However, no detailed evidence has been drawn to my attention to show that the impact of permitting or refusing planning permission for the appeal proposal on the local economy would be significant. Under these circumstances, I give limited weight to the economic benefits of the scheme.

Scope for meeting development needs in some other way

44. The allocation of sites within the AONB, such as K5 and K1, gives a clear indication that there is insufficient scope for meeting development needs through development outside the AONB. Nonetheless, it does not automatically follow that the proposal is the only means of meeting those needs.
45. The proposed access point to the western section of the appeal site from West Alvington Hill would be at the southwestern corner of the western field, at the point along the frontage of the western field where the Devon bank along the northern side of the highway is at its lowest. The Illustrative Masterplan indicates that an access road would run from that point along the southern side of the field. At the Inquiry, the Council indicated that even if the allocated site was not extended as proposed, it is likely that a similar access arrangement would be required to reach the western section of site K5, rather than a more direct route through a higher section of the Devon bank. Therefore, part of the extension is likely to be required in any event. However, in my view, the reduction in the size of the western field resulting from such a development would not materially alter the varied field pattern.
46. The Council has suggested that it would be feasible to accommodate the housing and employment levels set out in SADPD Proposal K5 within site K5 in an appropriate manner, if provisions were to be made for the identified level of open space and access to the west of the site, an option it referred to as K5+. Whilst the appellant disagrees, no illustrative material or detailed analysis has been provided in support of that view. It appears to me that such an approach has the potential to realise a housing density much more in keeping with the

surroundings and SHLAA assumptions than the 100 dwellings per hectare cited by the appellant as the likely outcome of accommodating all of the SADPD Proposal K5 development within site K5. It may take some time to establish strategic landscaping along the western side of K5+, to soften the visual impact of development and act as a defensible boundary. However, in my view, any disadvantages associated with that do not amount to a strong argument in favour of extending development even further across the field, as is proposed, thereby obscuring valuable views to the north.

47. In comparison with the appeal proposal, which would be likely to result in the loss of a larger area of pasture to built development, K5+ would be likely to leave a substantial part of the western appeal site field untouched by development, potentially reducing the adverse landscape and visual impacts of development when compared with the proposal. I have not been provided with any compelling evidence to show that such an option would not be preferable to the appeal scheme.
48. I conclude it is likely that the development need could be met in ways other than through implementation of the appeal proposal with less harm to the landscape. Furthermore, in the absence of a compelling case for the extension of residential development beyond the development boundary of site K5 into the countryside, the proposal would conflict with DPD Policy DP15, which seeks to protect the AONB, in keeping with the aims of the Framework.

Other matters

49. Norden House, which is a Grade II Listed Building, is situated at the northern end of Norden Lane a short distance to the north of the western appeal site field. The appellant's *Heritage Desk-Based Assessment* (HDBA) by Cotswold Archaeology confirms that the wider setting of this Listed Building comprises agricultural land, including the appeal site fields which have a historic connection to the house. There is some intervisibility, albeit limited by planting, between the western appeal site field and Norden House. The HDBA identifies that the wider setting of the house would be adversely affected by the proposed development. I agree with the finding of the report that as the scheme would not impact on the Listed Building itself or the land immediately around it, the harm to the significance of the heritage asset would be less than substantial. Nonetheless, the diminished agricultural setting, which would be likely to result from residential development, particularly on the higher ground of the western section of the western appeal site field, would cause material harm to the significance of the heritage asset, which weighs against the scheme.
50. The proposed access to the western appeal site field from West Alvington Hill would be close to its junction with Balkwill Road, which serves a local college, amongst other properties. I understand that at times college traffic causes some congestion at this existing junction and along the neighbouring section of West Alvington Hill. However, in my experience, peaks in traffic movements associated with educational establishments are often limited to a short period at the start and end of the day. Furthermore, the Highway Authority having considered capacity, vehicle speeds, the geometry of the proposed junction opposite the College and an associated *Stage 1 Road Safety Audit* has confirmed that it does not object to the proposed access arrangements, subject

to the imposition of conditions. I have not been provided with any compelling evidence to support a contrary conclusion.

51. A number of interested parties have raised concerns to the effect that the proposal may exacerbate existing flooding problems in Kingsbridge and potential impacts in relation to the downstream Salcombe to Kingsbridge Site of Special Scientific Interest (SSSI). However, the appellant has indicated that, through the provision of on-site attenuation, surface water run-off from the site could be limited to existing levels. Furthermore, the Council's Drainage Engineer and the Environment Agency have confirmed that they do not object to the scheme, subject to the provision of a suitable sustainable drainage system. In addition, South West Water has raised no objection to the connection of foul flows to the existing sewerage system. The Environment Agency has indicated that treatment improvements are to be delivered at the local sewage treatment works by 2015 and consequently foul discharges from the site would be unlikely to have an adverse effect on the estuary. The Environment Agency has confirmed that its views are shared by Natural England, who has confirmed that it does not object to the scheme. I consider that subject to the imposition of suitable conditions the proposal would be unlikely to either increase the risk of flooding elsewhere or adversely affect the SSSI.
52. As well as securing the provision of Affordable Housing, the S106 agreement serves a number of other purposes. The proposal would give rise to a need for additional secondary education facilities, demand from future residents would exacerbate deficiencies in sport provision within Kingsbridge and the scheme would necessitate some modifications to the layout of the local highway. I consider that the need for the financial contributions set out in the S106 agreement related to these matters have been adequately justified by the evidence presented. There is no dispute in relation to these factors. The site is located such that jobs, shops and services are likely to be reasonably accessible by modes of transport other than the car. With the aim of promoting sustainable transport objectives, the S106 agreement secures the provision of a 'welcome pack' for each dwelling, which would include a sustainable travel voucher in the value of £150. Whilst I understand that the Highway Authority may have sought a higher sum, I agree with the appellant that his commitment, which would be sufficient to cover a bus pass for a month as well as provide a discount against cycle purchase, would be reasonable. I am satisfied that the obligations set out in the S106 agreement are: necessary to make the development acceptable in planning terms; directly related to the development; and, fairly and reasonably related in scale and kind to the development.
53. Whilst the Council's decision to refuse planning permission in this case was against the recommendation of its planning officer and the views of a number of other consultees, this does not alter the planning merits of the case upon which my decision is based.

Conclusion

54. The Council has not demonstrated, in the context of the requirements of the Framework, that there is an adequate supply of housing land in the District. Part of the site has been allocated for housing and employment development and the proposal would make a notable contribution towards meeting the

pressing needs for housing land in the District as well as Affordable Housing. Insofar as the scheme would deliver these things it would be likely to give rise to social and economic benefits. Together these factors weigh heavily in favour of the scheme.⁹ However, the extension of built development beyond the bounds of site K5, as proposed, would cause substantial harm to the character and appearance of the local landscape and, albeit to a more limited extent, harm to that of the AONB, contrary to the aims of the Development Plan, and it would harm the significance of a designated heritage asset. Furthermore, it appears to me that there are likely to be other ways in which development needs could be met hereabouts which would result in less harm to interests of acknowledged importance. In my judgement, these factors outweigh the identified benefits of the scheme. I conclude on balance that exceptional circumstances to justify major development in the AONB have not been demonstrated, the scheme would not be in the public interest and the proposal would not amount to sustainable development under the terms of the Framework. Furthermore, in my view, the scheme could not be made acceptable in planning terms through the imposition of the conditions suggested.

Overall conclusion

55. For the reasons given above, I conclude that the appeal should be dismissed.

I Jenkins

INSPECTOR

⁹ Appeal decision Ref. APP/K1128/A/12/2179204.

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr D Fletcher Of Counsel	Instructed by South Hams District Council (SHDC)
He called	
Mr P Blackshaw BA(Hons) MRTPI	Principal Development Officer.
Miss J Perry BA(Hons) MA MRTPI	Strategic Planning Manager, SHDC.
Mr A Whish BA(Hons) PgDip LA LMLI	Landscape Officer, SHDC.
Councillor S Wright	Westville and Alvington Ward, SHDC.
Mrs B Fowlds	Solicitor, SHDC.
Mr D Kenyon	Planning Officer, SHDC.

FOR THE APPELLANT:

Miss S Ornsby QC	Instructed by Mr J Tarzey of Pegasus Planning.
She called	
Mr R Daniels MA MPhil MRTPI	Director, Pegasus Planning Group Limited.
Mr A Cook BA(Hons) MLD CMLI	Director, Pegasus Planning Group Limited.
MIEMA CEnv	
Mr J Tarzey BA(Hons) MRTPI	Director, Pegasus Planning Group Limited.

INTERESTED PERSONS:

Councillor J Brazil	SHDC and Devon County Council.
Mrs M Edmonds	Local resident.
Mr T Shell	Local resident.
Mrs D Clarke	Local resident.
Mr P Clarke	Local resident.
Mrs P Barlow	Local resident.
Mr G Froud	Local resident.

DOCUMENTS

Inquiry Documents

- 1 Letters from the Council notifying interested parties of the appeal and the Inquiry arrangements.
- 2 Letters from interested parties in response to the appeal notifications.
- 3 Letter from SHDC to Devon County Council, dated 24 January 2014.
- 4 SHDC Internal Memorandum from R Kennerley to Development Management, dated 3 July 2013.
- 5 Draft Section 106 Agreement.
- 6 Extract from South Hams Local Development Framework (LDF) Core Strategy.
- 7 Kingsbridge site K5-Site allocation land areas and density ranges.
- 8 Drainage correspondence bundle.
- 9 Extract Devon County Council Landscape character areas.
- 10 Plan showing footpaths local to the site.
- 11 Minutes of a meeting of the Executive, dated 18 July 2013.
- 12 South Devon AONB Management Plan 2014-2019.
- 13 Appeal decision Ref. APP/F1610/A/12/2173305.
- 14 Appeal decision Refs. APP/U1105/A/13/2191905, 2197001 and 2197002.
- 15 South Hams LDF Site Allocation Development Plan Documents Publication Stage Sustainability Threshold Assessment of Development Site Options April 2010.
- 16 South Hams and West Devon Strategic Housing Land Availability Assessment.
- 17 South Hams LDF Core Strategy, 2006.
- 18 South Hams LDF Development Policies Development Plan Document (DPD), 2010.
- 19 South Hams LDF Kingsbridge Site Allocations DPD, 2011.
- 20 South Hams LDF Affordable Housing DPD, 2008.
- 21 South Hams LDF Open space, sport and recreation Supplementary Planning Document (SPD), 2006.
- 22 South Hams LDF Planning Obligations SPD, 2008.
- 23 South Hams LDF Affordable Housing SPD, 2008.
- 24 South Hams Local Plan, 1996 (LP).
- 25 Masterplan Framework draft no. 1- Site K5 West Alvington Hill, Kingsbridge.
- 26 Email from Transport Planning Associates to the Highway Authority, dated 11 July 2013, enclosing a Stage 1 Road Safety Audit and Designer's Response.
- 27 Councillor J Brazil-summary.
- 28 Drawing no. 1103-89 SK08.
- 29 Drawing no. 1103-89 SK06 A.
- 30 South Hams' justification for obligations within the proposed s106 agreement.
- 31 LP settlement boundary for Kingsbridge.
- 32 Plan identifying the Trebble Park, Redford and Lime Grove estates with density estimates.
- 33 Extract from the national Planning Practice Guidance.
- 34 Email from the Highway Authority to SHDC, dated 3 February

- 2014.
- 35 Office for National Statistics sub-national population projection figures for the Plymouth urban area and South Hams.
- 36 Guidelines for landscape and visual impact assessment, third edition (LI/IEMA).
- 37 Email from the Highway Authority to SHDC, dated 24 October 2012.
- 38 Mr Shell-reference documents.
- 39 Email from the Environment Agency to SHDC, dated 8 July 2013.
- 40 Mrs M Edmonds- statement and reference documents.
- 41 Derivation of statistics-Core Strategy Allocations DPD figures contained within the Housing Position Statement, March 2014 and Sherford planning permission.
- 42 Email from the Highway Authority to SHDC, dated 23 July 2014.
- 43 Conditions suggested by the Council.
- 44 Drawing no. BRS.2673_15K – Indicative masterplan site K1.
- 45 Letter from SHDC to CJH Land Limited re. site K1, dated 8 November 2013.
- 46 Councillor Wright-supplementary statement.
- 47 Drawing no. BRS.2673_16L.
- 48 Drawing no. BRS.2673_36-3.
- 49 Extract SHMNA Main Report-Figure 7.4- net annual affordable housing need 220 (excl DNP).
- 50 Estimates of gradients across site K5.
- 51 Formally completed S106 agreement.
- 52 Official copy of register of title no. DN510046.
- 53 SHDC affordable housing statement.
- 54 Conditions suggested by the Council, with policy references.
- 55 Closing submissions on behalf of SHDC.
- 56 Closing submissions on behalf of the appellant.

Post Inquiry correspondence

- 57 The Cost application by the appellant against SHDC, the Council's response and the appellant's final comments.
- 58 Cost application by SHDC against the appellant, the appellant's response and the Council's final comments.