



Appeal Decision

Inquiry held on 1-4 and 8-12 December 2020

Site visit made on 17 December 2020

by Helen Heward BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th April 2021

Appeal Ref: APP/Y1138/W/19/3238631

Land & buildings at NGR 302469 114078, Higher Town, Sampford Peverell, 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 Place Land Limited against the decision of Mid Devon District Council.
 - The application Ref: 17/01359/MOUT, dated 4 September 2017, was refused by notice dated 1 August 2019.
 - The development proposed is *"the erection of 60 dwellings and construction of new vehicular access onto highway to the west of the site"*.
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Decision

1. **The appeal is allowed** and outline planning permission is granted for the erection of 60 dwellings and construction of new vehicular access onto highway to the west of the site at land & buildings at NGR 302469 114078, Higher Town, Sampford Peverell, Devon, in accordance with the terms of the application, Ref 17/01359/MOUT dated 4 September 2017, **subject to the conditions** as set out in the schedule at the end of this decision.

Costs

2. An application for costs was made by the appellant against Mid Devon District Council. That application is the subject of a separate decision to follow.

Preliminary and procedural matters

3. The Inquiry sat for 8 days between 1 and 12 December 2020. I carried out unaccompanied pre-inquiry site visits and undertook an accompanied visit on 17 December 2020.
4. Following post-Inquiry consultations and an exchange of correspondence, the Inquiry was closed in writing on 1 February 2021.
5. The application was made in outline with all matters reserved except for site access. Appearance, landscaping, layout, and scale would be subject to approval at reserved matters stage.
6. The site is surrounded by three roads, Turnpike to the south, Higher Town to the north and another to the west. This was referred to by some as the 'link road' and that is how I refer to it in this decision.

7. A local campaign group, Save our Sampford, was afforded Rule 6 status at the Inquiry. I refer to them as the Rule 6 Party in this Decision.

Access details and illustrative drawings for off-site highway works not for determination

8. The Town and Country Planning (Development Management Procedure) (England) Order 2015 provides definitions of 'access' and 'layout'. Access in relation to reserved matters means the accessibility to and within the site for vehicles, cycles, and pedestrians in terms of the positioning and treatment of access and circulation routes and how these fit into the surrounding access network. Layout means the way in which buildings, routes and open spaces within the development are provided, situated, and orientated in relation to each other and to buildings and spaces outside the development.
9. At the first pre-Inquiry Case Management Conference (CMC) in February 2020, the main parties agreed that the extent of on-site access details that fall to be considered in this appeal are confined to the immediate points of access into the site, the geometry of the access junctions with the highway (width, radii, visibility splay etc) and the details of the first three or so metres of each access¹. The remainder of the route(s) within the site would be for consideration as part of subsequent reserved matters.
10. At the second CMC meeting in June 2020, it was agreed that detailed proposals for off-site highway improvements were not for determination at this stage, albeit that an outline application must substantiate the principle of development. To that extent, if off-site works are required to make the scheme acceptable, these too must be substantiated². Details shown of pedestrian or vehicular routes within the site would form part of a reserved matters application that would need to follow, were the appeal to succeed.
11. In response to the first CMC, a revised illustrative drawing was submitted (06685-HYD-XX-XX-DR-D-0003 Rev P03) for a north-east (NE) access. There was no change as to the matters for determination, including the position, width, set back and other dimensions of the access itself.
12. The Appellant undertook further work on the design of off-site highway works before the Inquiry. The Appellant's Highways Proof of Evidence included additional drawings to illustrate potential changes that could be made to address the third reason for refusal and the concerns of interested parties. Inspector Robins clarified the approach he was taking in a pre-inquiry note³.
13. In particular, drawing 06685-HYD-XX-XX-TP-0125-Rev P1 for the south-east (SE) access was submitted as an alternative to 06685-HYD-XX-XX-TP-108 Rev P4. Both plans, and the nature of the alternative provision, were set out in the Appellant's Highways Proof of Evidence. The main change was in relation to the detail of off-site highway works for a footway build-out to the southern side of Turnpike.
14. These changes were made available in advance. All parties had chance to consider, respond in evidence and put questions. It was apparent from

¹ First CMC meeting note 26 February 2020

² Second CMC meeting note 2 July 2020 Inspector Mike Robins issued a pre-inquiry note about the application plans following specific concerns raised by the Rule 6 Party.

³ 3238631 Plans Note, Mike Robins 2 July 2020.

submissions at the Inquiry that interested persons were aware and had opportunity to address them.

The changed Development Plan context

15. At the time the application was determined by the Local Planning Authority (LPA) the relevant Development Plan documents were the Mid Devon Local Plan Core Strategy (Local Plan Part 1), and the Mid Devon Local Plan Development Management Policies (Local Plan Part 3). However, by the time of the Inquiry, these had been superseded by the Mid Devon Local Plan Review 2013 – 2033 (MDLP) which was adopted on 29 July 2020. Policy SP2 allocates the appeal site for a low-density residential development of up to no more than 60 dwellings subject to a number of requirements.
16. Whilst the explanatory text to policy SP2 refers to a conservation area, all parties were agreed that there are two of relevance to the appeal site, the Sampford Peverell Conservation Area and the Grand Western Canal Conservation Area.

Red line plan and illustrative layouts

17. Application Drawing 1238.01 19.12.2017 indicated the red line of the site boundary and other land in the same ownership in blue. Drawing 1238.01.A 26.2.2020 amended the red line around the appeal site to exclude a small narrow strip of land at the north-east corner that had been included in error.
18. Drawing 1238.04A is an illustrative layout including housing, green infrastructure, and open space. On 31 July 2020 another version of 1238.04A 30.7.2020 was submitted. This iteration added a “revised policy boundary” annotation but was otherwise unchanged. At the same time, an alternative illustrative layout, drawing 1238.04B 30.7.2020, was submitted.
19. Drawing 1238.04B was submitted in response to an amendment to the MDLP Adopted Policies Map for Sampford Peverell, made by the Council on 29 July 2020. Both 1238.04A and 04B were amended in September 2020 to correctly show the red line. At the Inquiry, drawing 01238.04B was the layout mostly referred to and is the illustrative layout to which I refer unless otherwise stated.

Reasons for refusal

20. The Decision Notice set out three reasons for refusal (RfR) relating to 1) landscape and visual impacts of development, 2) sustainability of the location and car-based commuting, and 3) the suitability and safety of a pedestrian footway at Sampford Peverell and associated crossing points.

RfR2: sustainability of location

21. On 23 October 2019, the LPA resolved not to defend RfR2. At the first CMC in February 2020, it was confirmed that the Rule 6 Party did not intend to call evidence regarding the general suitability of Sampford Peverell for new housing development in terms of access to services and facilities.
22. The site is on the western side of Sampford Peverell, between Higher Town and Turnpike. The village centre along Lower Town includes, amongst other things, a village hall, doctor’s surgery, a convenience store with post office and a play

area. Tiverton Parkway train station is on the eastern edge of the village. The Primary School, Methodist Chapel and Church are along Higher Town.

23. This aspect of sustainability was not disputed by the main parties or by Inspector Singleton, who held the original CMC. Based on the evidence before me, I have no reason to take any different view.

RfR1: landscape and visual impacts prior to the Inquiry

24. On 13 November 2020 the Council advised that, having regard to the revised illustrative layout submitted by the Appellant, its acceptance by the Planning Inspector into the application documents for the appeal, and the advice of the Council's consultant on that layout and the implications for its case, the Committee no longer believed that there was a sound case to be made and the LPA would no longer be defending RfR1 at the Inquiry.
25. At the Inquiry opening, the Council confirmed that it was withdrawing its evidence in relation to RfR1. The Rule 6 Party also withdrew objections and evidence in relation to distance viewpoints but maintained arguments in relation to impacts arising from the NE access and main vehicular access. Several written representations, including those from local residents, also raise concerns in this regard and these matters were explored at the Inquiry.

RfR3: revised off site highway works drawing submitted at the Inquiry

26. At the Inquiry opening, the Council confirmed that it was present only to defend RfR3 regarding the suitability and safety of a pedestrian footway at Sampford Peverell and associated crossing points.
27. In relation to highway safety, the Council had no issue with a proposed pedestrian access in the south-west (SW) corner of the site to provide pedestrian/cycle access to Battens Cross. The Council took no issue with a pedestrian/cycle access at the NE corner of the appeal site onto Higher Town, or pedestrian accessibility along Higher Town. Nor did the Council take issue with a proposed pedestrian/cycle access in the SE corner of the site onto Turnpike. The Council's concern about the SE access related to visibility to the west from the south side of the carriageway.
28. In the canal bridge area, the Council's objections were in relation to the safety of pedestrians at a proposed crossing of Turnpike in the vicinity of the canal bridge, and on a proposed section of footway on the north side of Turnpike.
29. During the Inquiry, discussions continued between the Council and Appellant. For the Council, Mr Hardyman, agreed that there was an improvement that could be delivered, and that suitable off-site highway works in the canal bridge area could be secured by a condition that would overcome RfR3.
30. During the Inquiry a Statement of Common Ground (SoCG) between the Appellant and Council, 8 December 2020, was submitted, together with a new drawing 06685-HYD-XX-XX-DR—TP—P-07 Rev P07. This illustrates a scheme of off-site works for the canal bridge area which the parties agreed could be achieved. The new drawing showed a repositioning of a proposed pedestrian crossing and an increased width of a proposed footpath. In the SoCG, the Council and Appellant agree that no further changes to the Appellant's proposed off-site highway works would be required, including at the south

eastern Turnpike access, which would be provided in general accordance with drawing 06685-HYD-XX-XX-DR-TP-0125 Rev P01.

31. The Rule 6 party did not object on highway grounds. The information referred to above was submitted after the Rule 6 Party's Landscape and Heritage witness had given evidence upon the effect of the off-site highway works on the Sampford Peverell Conservation Area (CA), including the effect of a new footway on the north side of Turnpike in close proximity to locally designated walls. The footway would be extended, but the principles remained the same. The Rule 6 Party agreed it was not necessary to recall their witness to address the drawing.
32. At the opening of the Inquiry, Mrs Thomas, a resident of Turnpike, spoke against the proposed off-site works to the canal bridge area. Mrs Thomas was alerted to and participated in a round table session which I held to probe the new information, during which she made a statement addressing the new proposals.
33. Residents of three properties on Turnpike in the vicinity of the revised crossing and footpath position were not at the Inquiry. It was agreed that the Council would notify occupiers of those properties of drawing 06685-HYD-XX-XX-DR—TP—P-07 Rev P07. The Inquiry was held open to allow for comments in writing. Letters were received from occupants of all three properties, the content of which I have taken into account in coming to my decision.
34. Drawing 06685-HYD-XX-XX-DR—TP—P-07 Rev P07 did not include any fundamental changes to the substance of the off-site proposals. The details shown were not for determination, but to substantiate the principle of the delivery of highway improvements. Should outline planning permission be granted, then consideration of the off-site highway works, including detailed design and further safety audits would follow a process with the competent highway authority later.
35. The consultation exercise ensured that residents had an opportunity to consider the proposals and make their views known. The Appellant responded in writing and I have considered all relevant matters raised in this decision.
36. In the light of the SoCG, the Council advised that subject to appropriate conditions and planning obligations it no longer opposed the appeal. Having regard to the Wheatcroft principles⁴, I am satisfied that no party was prejudiced by my accepting the new plans and evidence referred to and I have taken the drawings into account as appropriate.
37. Notwithstanding the agreement reached between the Appellant and Council, highways matters remained key concerns of the Rule 6 Party and others, the main areas of concern being the proposed off-site works along Turnpike, including the canal bridge area, off-site works at the SE access to provide visibility, and works at the proposed NE access. All these matters were explored at the Inquiry. The relevant plans are:
 - Red Line plan 1238_01A 26 February 2020
 - Illustrative layout A 1238 04B 17 September 2020
 - Illustrative layout B 1238 04B 17 September 2020

⁴ *Bernard Wheatcroft Ltd v SSE* [JPL, 1982, P37]

- Main vehicular access to the west of the site 06685-HYD-XX-XX-DR-TP-106 Rev P5
- South east pedestrian/cycle access onto Turnpike 06685-HYD-XX-DR-TP-108-P4 and off-site works drawing 06685-HYD-XX-XX-TP-0125-Rev P1
- North east pedestrian/cycle access onto Higher Town and off site works 06685-HYD-XX-XX-DR-TP-P-04 Rev P3
- South west pedestrian/cycle access at Turnpike Battens cross junction 06685-HYDXX- XX-DR-TP-0110-P2
- Canal bridge area improvements 06685-HYD-XX-XX-DR-TP-P-07 Rev P 07
- South west pedestrian/cycle access 06685-HYDXX- XX-DR-TP-0110-P2

Clarification in writing of matters arising on the accompanied site visit

38. It had been raining before the accompanied visit on 17 December 2020. The setting out of the proposed build-out that the parties had previously agreed at the proposed NE access, had been eroded by the weather and movement of vehicles. Several attempts were made to check the set out and where I should stand exactly.
39. After the site visit, I sought clarification in writing from the three main parties about the factual events of the site visit that led to me not having comfortable full sight of visibility to the right, and possible consequences of the observed situation, including a further build out or repositioning of the access to the west. The Rule 6 Party advised that cars parked on Higher Town had affected the setting out and that on the morning of the site visit, poor weather and the movement of cars had removed much of the markings. The Appellant's Highway witness, who attended the site visit, confirmed that it had not been possible to re-establish all elements of the build out in a robust way. I can confirm however, that the information I was able to gain on my site visit information, combined with all the other evidence before me, was sufficient for me to be able to come to a fully informed view about the proposed arrangements and any implications for vehicular and pedestrian safety.

Legal Obligations

40. A S106 Agreement (S106) and a separate unilateral undertaking (UU) were discussed at the Inquiry. Plan 1 of the s106 shows the red site line boundary extending around all the open land between Turnpike, Higher Town and the link road to the west, save for an existing dwelling and an existing barn. Plan 2 identifies Green Infrastructure (GI) and a separate area required for the 60 houses proposed, which could include additional GI and public open space (POS) defined at the reserved matters stage. Due to Covid-19 restrictions the two plans are signed separately by the two Councils (Devon County Council and MDDC) and remaining parties, but both copies are included in the completed agreement.
41. The S106 would provide for:
- Schedule 1 – provision of Affordable Dwellings to comply with the requirements of Policy S3. Options of 30% or 35% are provided. The schedule secures their provision and restricts occupation of the intermediate dwellings, affordable rented dwellings and social rented dwellings to a Qualified Person and their dependents. In the event of the provision of 30% Affordable Housing, the schedule provides covenants to additionally secure the provision of an additional 5% fully serviced Self

Build Land for Self-Build Housing. I return to consider these alternative options later.

- Schedule 2. 1 – arrangements for the provision of public open space to comply with Policy SP2 and the requirements of Policy S5, to include Public Open Space (POS), Locally Equipped Area of Play (LEAP) and GI including not permitting the commencement of development unless or until the Open Space Specification (OSS) has been submitted to and approved by the Council.

Open Space means areas of public open space provided in accordance with MDLP Policy S5. GI means an area of informal green space of not less than 2.5ha, which may include the provision of footpaths and accessways to be provided in accordance with the OSS.

The GI Land is shown hatched green on Plan 2. Provisions include not to cause or permit the GI land to be used for any other purpose, excepting continuation of agricultural use in a specified area defined on Plan 2 and not to allow occupation of some dwellings until the LEAP and Open Space Works have been completed in accordance with the OSS. Covenants require that the Open Space would be always available for public use in perpetuity and to maintain the Open Space, the LEAP and GI in accordance with the OSS. Provisions for forming a Management Company if necessary are also included.

- Schedule 2. 2 – a contribution of £197,289 for secondary education to be used towards Phase 1 of additional teaching accommodation at Uffculme College.
- Schedule 2.3 – a contribution of £250 per qualifying dwelling towards Early Years provision in Sampford Peverell Primary School.
- Schedule 2. 4 – a contribution of £3401.50 to Devon County Council (DCC) towards the provision of transport for secondary school pupils.
- Schedule 3 – a covenant relating to the Travel Plan to secure its implementation and requiring the approval of DCC for any amendment or discontinuance.
- Schedule 4 – arrangements for repayment of any education and transport contributions not applied, committed, or contracted.
- Schedule 5 – a covenant by the owners to enter into agreement/s or deed/s with DCC under the 1980 Highways Act in respect of off-site highway works.

42. The UU relates to Traffic Regulation Orders (TROs) required to extend the 30mph speed limit on Turnpike to the Battens Cross junction, then north along the link road to Higher Town and east to meet the existing 30mph limit on Higher Town adjacent to the NE corner of the appeal site.
43. The Council submitted a Community Infrastructure Levy Regulations Compliance Statement which set out the justification for the above obligations, including identification of relevant policies in the adopted Local Plan. The need for these obligations was agreed between the Council and the Appellant. I see no reason to differ and am content that they meet the relevant tests. I have

taken the obligations into account accordingly. I address the optional affordable housing clauses and alternative highway conditions later.

Main Issues

44. By the time the Inquiry opened, the main parties were all agreed that:-

- The statutory test requires that applications for planning permission are determined in accordance with the development plan unless material considerations indicate otherwise.
- The Local Plan Part 1 and Local Plan Part 3 had been superseded.
- The MDLP was up to date and the Council has a five-year housing land supply.
- The MDLP, and Policy SP2, attract full weight in the appeal.

45. The Council had withdrawn all landscape and visual objections, did not raise heritage objections and nor did it object to the new access road in any way whatsoever. The Rule 6 Party also withdrew most of its landscape evidence, but maintained objections to two discrete points, (1) effects in the locality of the NE access and (2) effects of the main vehicular access. Interested parties raised similar objections.

46. In light of the forgoing, the main issues are:

- i) Whether the proposals satisfactorily demonstrate that proposed access and highway works along Turnpike including the canal bridge area, at the SE corner of the site and at the NE corner of the site, would provide safe and suitable improved access to the village for pedestrians and cyclists;
- ii) The effect of the development proposed on the character and appearance of the Sampford Peverell Conservation Area (CA) and the setting of heritage assets in the locality of the NE corner of the site and,
- iii) Whether the proposed vehicular access would comply with requirements in MDLP Policy SP2 for the delivery of GI and to protect the setting and character of the area.

Reasons

Safe and suitable access

47. Evidence from the Council and Appellant indicated that the proposal would generate some 33 or 34 vehicular movements in the am peak and between 32 and 38 movements in the pm peak. The differences are small and neither indicate that a substantial volume of traffic would be generated. The Council and Appellant agreed that the traffic movements would be split, with roughly half going west and half east along Turnpike. Given the proximity of the site access to Turnpike, the more complex geometry of Higher Town and on-street parking, I too think it unlikely that many eastbound vehicles would choose the Higher Town route.

48. Interested parties described how busy Turnpike can be and reported incidents, including a relatively recent accident described by Mrs Thomas at the Inquiry. There is little evidence from professional highway witnesses regarding accidents. A SoCG between the Appellant and the Local Highway Authority,

Devon County Council (Highway Authority) confirms that the level of vehicle trips generated on Turnpike would be within observed daily variations in traffic flows on that road. Although the Rule 6 Party had expressed concern about the intensification in use on Turnpike, their highway witness did not demur from the agreed position. In the absence of any substantiated evidence to the contrary, I have no reason to take a different view.

49. The Appellant predicted that pedestrian movements would be no more than 2 to 3 in the am/pm peak hours. The Rule 6 Party's highway witness found these difficult to reconcile and preferred the Council's slightly higher level of between 5 and 9. However, the Council's evidence base for its predictions includes a number of more suburban locations, whereas this is a more rural location. Consequently, I was less persuaded.
50. The appeal proposes pedestrian and cycle access points at the NE and SE corners. These would facilitate routes to the village via Higher Town and Turnpike. The Council and Appellant predict that roughly half the pedestrian trips would be via Higher Town and half via Turnpike. Not all agreed.
51. Based on my experience of walking between the site and Sampford Peverell, I consider it likely that residents of the new development may well make frequent trips via the NE access to reach education, community, and religious facilities on Higher Town. However, Turnpike seemed a more direct and quicker route to the village centre. I consider a 50/50 split assumption reasonable. All in all, the evidence indicates that the likely number of additional vehicular and pedestrian trips would be low.
52. It was common ground between the Appellant and the Highway Authority that footways alongside Turnpike and parts of Higher Town are typical of local provision and provide for existing pedestrian movements and future demand which would arise between the appeal site and the village as a consequence of the development proposed. Nonetheless, MDLP Policy SP2 criterion g) requires "Improved access to the village for pedestrians and cyclists".
53. The UU would secure the funding for a TRO, the effect of which would be to restrict traffic speeds on Turnpike, the link road and Higher Town in the vicinity of the appeal site to 30mph. The proposed TRO removed the Rule 6 Party's highway safety concerns relating to the Battens Cross and Turnpike junction and visibility splays from the main residential access onto the link road. The Council and the Highway Authority raised no highway safety objections to the proposed vehicular access.
54. Whilst some interested parties maintained concerns about visibility splays at the vehicular access, the Council took no issue in this regard and the expert witness for the Rule 6 Party concurred that, with the TRO, the proposals were satisfactory.

Footpath along Turnpike

55. The existing footway, approximately 380m long on the south side of Turnpike between the proposed SE access and the canal bridge, varies in width. It is presently used by pedestrians walking to and from the village centre from existing properties along Turnpike, commuters and as part of a recreational loop west from the village along the Grand Western Canal.

56. The publication Inclusive Mobility (Department of Transport 2015) advises that a visually impaired person who is being guided needs a footway width of 1.2m. A wheelchair user and an ambulant person side-by-side need 1.5m. For the first half of the footway here, the available width is around 1.2m-1.9m. It could be increased to 2m. At the Inquiry, Mr Hardyman agreed that this would be welcome. It would enable users to pass more conveniently, would be a suitable and safe improvement for pedestrians and a public benefit and could be secured by a planning condition.

The canal bridge area

57. Whilst there is nothing in Policy SP2, or the accompanying explanatory text, to say where or what the improved access should be, the Highway Authority had requested that the Appellant assess the potential for additional pedestrian provision on Turnpike at the canal bridge.
58. The Council had objected to a scheme which illustrated a formalised crossing at the point where the footway on the south side runs out. At the Inquiry, Mrs Thomas argued that anyone using the proposed crossing would do so without adequate sight of the vehicles approaching, and that approaching vehicles would not have a safe stopping distance. She described the situation as one of "life or death" and argued that the proposals were discriminatory. These views were broadly representative of others.
59. Drawing 06685-HYD-XX-XX-DR—TP—P-07 Rev P07 proposes that the pedestrian crossing point be moved a short distance to the west. The proposed crossing would be slightly off set from the front door to No 4 Turnpike and a carport used by residents of Wharf House. There would be a small build out to the pavement. These features would provide a wider area for pedestrians to wait to cross the road and reduce the potential for confusion and conflict, even at commuter times.
60. Residents of Wharf House advise that they need the carriageway to manoeuvre a vehicle in and out of the car port/undercroft parking spaces and often experience vehicles trying to overtake whilst reversing. They anticipate that the proposed build out would complicate manoeuvres, possibly leading to encroachment onto the proposed pedestrian crossing, with implications for the safety of pedestrians and drivers.
61. The new crossing would be a relatively low-key arrangement, with dropped kerbs from the build out onto the carriageway. There is already a dropped kerb to the pavement outside the door to 4 Turnpike, where the existing footway is narrow. There is also an existing dropped kerb outside the carport. Presently, people with chairs, prams, walking aids, or shopping trolleys might use these existing dropped kerbs to cross the road. Even using the Council's predicted pedestrian movements, it is unlikely that there would be many interactions between pedestrians on the crossing with vehicles from Wharf House. In the absence of any substantiated evidence to support the residents' concerns, I am content that there would be no material harm in this regard.
62. In the revised position, a visibility splay to the east from the southern side of the road could be achieved of not less than 1.0m (x distance) x 39.7m (y distance) to a 1.0m offset from the carriageway edge marking of the westbound lane. At the Inquiry the Council agreed that, even allowing for the Council's speed survey results, which indicated faster moving vehicles than the

Appellant's survey, a "y" distance of 39.7m would meet the sight stopping distance requirements as set out in Manual for Streets (MfS).

63. At the proposed crossing point, an "x" distance of 1m back from the build out edge would be achieved. Some wheelchairs and mobility scooters are more than 1m long, and there could be other situations which would require people to manoeuvre themselves or their dependents in order to achieve visibility. Section CD 143 of the publication *Design Manual for Roads and Bridges*, 'Designing for walking, cycling and horse-riding,' suggests a minimum setback of 1.5m for visibility splays for pedestrians. But the document provides requirements and advice for the design of walking, cycling and horse-riding facilities on and/or adjacent to the motorway and all-purpose trunk road network. Turnpike is neither. The locality has a tight urban grain, with buildings and walls tight against the road environment. The existing footway on the south side of Turnpike near the canal bridge, is narrow. Neither the Council nor the Highway Authority raised any concerns that the existing or proposed level of pedestrian use on Turnpike required a formal pedestrian crossing point. The Highway Authority does not require a 1.5m set back, and from my site observations.
64. Although Mrs Thomas submitted that the revised crossing position was close to two blind bends, she also advised the Inquiry that the position shown on revised drawing 06685-HYD-XX-XX-DR—TP—P-07 Rev P07, was the location that she usually uses to cross the road and agreed it was the safest point. On visits, I crossed the road safely at various locations and observed others doing the same. The crossing point shown reflects a natural desire line. Standing at the crossing in the proposed build out position, I found that I had satisfactory visibility to the east for crossing the road south to north. Residents of 4 Turnpike consider that the crossing would be too close to a blind corner, that visibility of the road ahead is very limited and that cars currently pass at speeds of over 30 mph. Standing on the northern side of the road, I observed that it was a good distance to the bend to the west. Interested parties also refer me to The Highway Code but I find no substantiated technical evidence before me to support the concerns of Mrs Thomas that the available stopping distances as proposed at the revised crossing are somehow insufficient or inadequate. I consider that the proposal would be an improvement on the current situation for pedestrians seeking to cross the road from south to north in this locality.
65. Drawing 06685-HYD-XX-XX-DR—TP—P-07 Rev P07 proposes a new segregated footway on the northern side of no less than 1.5m in width along its length, up to the position of the proposed crossing point, save where that would lead to a carriageway width of less than 5.5m, or where the resultant carriageway width would unacceptably compromise the movement of heavy goods vehicles. A width of 1.5m could be achieved along the majority of the footway and would enable a wheelchair and pedestrian to pass. A 1.3m wide section would be limited to approximately 4m in length.
66. The 'Fruin' methodology set out in *Designing for pedestrians: a level of service concept*, might indicate a width of 1.8m, but Section 3 of Inclusive Mobility advises, that where a clear width of 2m is not possible because of physical constraints, 1.5m could be regarded as the minimum acceptable under most circumstances, and that the absolute minimum, where there is an obstacle, should be 1m clear space. There would be intervisibility of the narrower

sections allowing users to wait to avoid conflict and I am mindful that there are no objections to the arrangement proposed from any expert highway witnesses.

67. Presently, on the north side of the road, the ability for pedestrians to pass by each other is all within the vehicular carriageway, with no segregated footway. A perceived ability for pedestrians to pass here could give a false sense of safety and confidence. Not all disabilities are mechanical or obvious and the existing unsegregated use of the carriageway close to the canal bridge, with a lack of direction as to where to cross the road, presently offers little safeguarding for some. A raised segregated footpath, even with the limitations described would represent an improvement.
68. Trees and other greenery overhang walls on the northern side of the carriageway. At low level, it appears to be mainly limited to evergreen ivy and does not noticeably protrude. The tree canopies above will drop leaf litter. The potential for this to create slippery surfaces would not be materially different to at present. The provision of a kerbed edge to the footway would, in my view, prompt a pedestrian to think before stepping out into the carriageway to avoid leaves.
69. The provision of a segregated footway would result in a narrower carriageway for vehicles in places. The Highway Authority confirmed that it would be possible to reduce the carriageway width to 5.5m if required. Residents of 4 Turnpike, Mrs Thomas and others disputed this. Whilst the MfS paragraph 6.5.7 states that streets on bus routes should not generally be less than 6.0 m wide, it also advises that this could be reduced on short sections with good inter-visibility between opposing flows and indicates that 4.8m is wide enough for a car and HGV to pass, with 5.5m being sufficient for two Heavy Goods Vehicles.
70. I agree with the Appellant's Highway consultant that a narrowing of the carriageway is likely to reduce traffic speed within the area. I do not agree with those opposing the scheme in this regard that any narrowing of the road would materially exacerbate existing blockages with large and slow vehicles on the corner leading to the canal bridge, causing vehicles to back up on both lanes, and to congestion outside dwellings on Turnpike. Nor is there any technical evidence to demonstrate that the scheme would prevent delivery and other vehicles from servicing properties as safely as existing.
71. Residents report that they presently find it alarming when westbound traffic comes round the bend very close to the pavement and fear they would not feel safe coming out of their property. However, there are no plans to narrow existing footways and traffic on the carriageway would not be able to pass closer to property than is presently possible. The Council agreed that an acceptable balance between footpath and carriageway widths could be achieved.
72. From the north side of Turnpike, to reach the pedestrian bridge over the canal, a pedestrian must cross Higher Town where it meets Turnpike. Drawing 06685-HYD-XX-XX-DR—TP—P-07 Rev P07 indicates that the footpath would extend around the corner on to the west side of Higher Town. Presently vehicles approaching from the west along Turnpike might do so at some speed and could turn into Higher Town close to the edge of the carriageway. A pedestrian waiting to cross west to east also has limited visibility to the north

of traffic approaching from Higher Town. Whilst the visibility splay for pedestrians may still be technically substandard, the proposed scheme would be an improvement over the existing situation and the raised footway would segregate pedestrians and vehicles, providing pedestrians with a refuge from which to assess the traffic situation before stepping out into the carriageway. Again, this would represent an improvement.

73. Mrs Thomas described an incident in 2020 when a HGV tried to turn right into Higher Town from the canal bridge and got stuck and 'mangled' the safety railings at the end of the footbridge next to canal bridge. Interested parties at the Inquiry felt the metal guards were important for pedestrian safety. It was confirmed to me that the absence of the rails on Drawing 06685-HYD-XX-XX-DR-TP-P-07 does not indicate their removal. In relation to other concerns raised, there was scant professional evidence to support the view that the off-site highway works would result in an increase in air and noise pollution or damage to dwellings.

The SE corner of the site

74. The main issue of concern is whether there would be an adequate visibility splay from the southern footway, opposite the proposed pedestrian access. The Council was satisfied that the off-site works illustrated on 06685-HYD-XX-XX-DR-TP-0125 rev P01, including the proposed build-out to facilitate improved visibility, adequately addressed concern about visibility to the west when crossing south to north. Nonetheless it remained a concern of the Rule 6 Party and others.
75. Visibility looking west is severely restricted by a wall. No physical features prevent vehicles from overtaking as they approach Sampford Peverell along Turnpike from the west. Oncoming vehicles travelling on this side of the carriageway towards the crossing would be overtaking. The Appellant's speed survey indicated an 85th percentile speed of 42.3mph. However, the TRO would reduce the speed limit to 30mph, and the Rule 6 Party's expert highway witness agreed that, with the 30mph speed limit in place, there was no longer any contention about the application of MfS principles.
76. The occasions where pedestrians would not see an approaching overtaking vehicle would be limited. The scenario painted by some at the Inquiry was of a motorcyclist overtaking a vehicle overtaking another vehicle. The Rule 6 Party witness agreed that that scenario was quite absurd. Residents described cars parking on the road, for example when visiting the cemetery. This could occasionally restrict visibility but would also likely limit the ability to overtake.
77. Mrs Thomas informed the Inquiry about an accident in October 2020 when a motor cyclist tried to overtake a vehicle on Turnpike between Battens Cross and the cemetery. In addition, an email from Devon County Council, February 2018 (from the School Transport Officer) highlights shortcomings of bus pick up points on Turnpike at both Battens Cross and in the village centre. Mrs Thomas acknowledged that a TRO reducing the speed limit to 30mph further west along Turnpike would be helpful. Although no physical features would prevent overtaking, white lines could be introduced to prevent it and the TRO would significantly mitigate against overtaking.
78. Routes within the site to the access points would, of necessity, traverse sloping land. Such is the local topography. Inclusive Mobility states that gradient

figures may be regarded as a 'counsel of perfection' as the terrain in many places imposes steeper gradients. The standard of 5% should be borne in mind when designing new footpaths and pedestrian areas. Steeper gradients can be managed by some wheelchair users, but only over very short distances (1m or less), for example on a ramp between a bus entrance and the pavement. Even over these short distances, the maximum gradient used should be no more than 10%. As a general rule, 8% should be used as the absolute maximum. Whilst MfS paragraph 6.3.27 advises that designers should attempt to keep pedestrian (and cycle) routes as near to level as possible, it also recognises that topography, or other circumstances, may make this difficult to achieve.

79. Nothing in the legal agreements would prevent adjustments to the routes that might be necessitated at the reserved matters stage. There was little in the way of expert evidence before me to demonstrate that maximum gradients would necessarily be exceeded within the site. I have no reason to suppose either that the design of safety barriers or other measures could not be made safe and suitable for all users. These matters would be for the detailed design stage should outline planning permission be granted.

The NE corner of the site

80. Higher Town is a relatively narrow road where there is no, or only an intermittent, footway. As a consequence, vehicles, pedestrians and cyclists share the carriageway.
81. The NE footway/cycleway access would direct users onto the carriageway at the point where vehicles are entering the built-up area. A proposed gateway feature, a short distance to the west, would alert drivers the presence of the access. In addition, where the NE access exits onto Higher Town, a proposed build out into the public highway would afford visibility of approaching traffic.
82. Higher Town too, is far from level. The gradient of a road and / or footway is also an important factor in the propensity to walk. MfS paragraph 7.2.10 advises that people with cognitive difficulties may find the environment difficult to interpret and that the absence of a conventional kerb poses problems for blind or partially sighted people, who often rely on this feature to find their way around. However, Higher Town is an existing shared carriageway and MfS paragraph 1.1. advises that the standards are expected to be used predominantly for the design, construction, adoption, and maintenance of new residential streets, and to existing residential streets subject to re-design.
83. The width of Higher Town varies noticeably. I observed vehicles waiting for another to manoeuvre or a pedestrian to pass. I have no doubt that this would, on occasion, be necessary in the vicinity of the build out. However, evidence indicates that traffic flows on Higher Town are less than 50 vehicles per hour and the Council and Appellant agree that drivers departing from the new development are unlikely to choose a route via Higher Town.
84. Evidence indicates that the number of pedestrian movements generated by the development would not be high. Not all pedestrians and cyclists would use Higher Town. When accessing Higher Town from the appeal site people could wait on the build out until it was safe to proceed. It is unlikely that the short build out would result in drivers trying to squeeze past cyclists. Nor do I find any persuasive evidence that the proposal would result in conflict between

different users of the shared surface, including between vehicles and cycles, or between vehicles or cyclists with less able users of the shared surface or with children walking to school.

85. The carriageway past the proposed build out would be 3.2m wide. I observed that a couple of cars parked the locality of the proposed NE access restricted the width of the carriageway in the same locality as the proposed build out. The carriageway may be narrow in the immediate vicinity, but it soon widens in both directions where I observed vehicles to wait to pass each other safely. I noted houses built close to the road, people walking in the central part of the carriageway and standing between parked cars. I also saw a cyclist ride down the middle of the road and an ambulant pedestrian with a wheelchair user side by side proceeding along the carriageway. The Rule 6 Party accepted that existing features such as the barn at 42 Higher Town and parked cars calm traffic. I agree. The proposed western 'gateway' feature and the build out at the NE access would strengthen the feeling of entering a residential settlement for drivers approaching from the west, assist in alerting them to the transition from a rural to a more built up area and encourage lower speeds. The TRO would limit approaching traffic to 30mph. That a car and van could not pass at that point would also have the effect of a traffic calming feature.
86. MfS paragraph 6.7.3 advises that a 3.7m carriageway (kerb to kerb) is required for operating space at the scene of a fire. It also states that to reach a fire, the access route could be reduced to 2.75m over short distances, provided the pump appliance can get to within 45m of dwelling entrances. At the Inquiry it was pointed out that the fire hydrant connection point would be in close proximity to the build out and the Rule 6 Party's highway witness agreed, under cross examination, that it was unlikely that a fire engine would need to stop here. I noted on site that the nearest buildings, and the principal access to them, are to the east of the proposed build out. I see no reason as to why a fire engine would need, or indeed seek, to park directly within the narrowed section, even if attending an incident nearby.
87. MfS does not specify an 'x' distances for cyclists and a 2m set back is not a current guideline. The Highway Authority required a 1.5m 'x' distance. In my view, a mounted cyclist, with the front wheel at the kerb, waiting to assess the situation before deciding whether to join the carriageway, is unlikely to have their head more than 1.5m back. Safety measures on the downhill approach within the site, could reduce the speed of cyclists approaching the access, but these are matters for the detailed stage. The Highway Authority did not object to the scheme in this regard.
88. Although there was little technical evidence regarding the suitability of the NE access for the less able, the Highway Authority raised no concerns on this basis. I have no sound reason to suppose that a build out with a 1.5m 'x' distance could not be made safe and suitable for all.
89. Drawing No 06685-HYD-XX-XX-DR-TP-P-04 Rev P3 for the NE access indicates provision of a 1.5m x 45m visibility splay to a 1m offset to the east from the build out. It represents the maximum achievable. The Highway Authority had indicated support for this. However, in terms of the visibility splays available for pedestrians using the proposed build out/crossing point, it was demonstrated at the accompanied site visit that the 45m splay to the east, cannot physically be achieved, due the presence of the barn adjacent to No 42

Higher Town. The Appellant then set out a 40m visibility splay, which was achievable with only a very slight forward tilt of my head.

90. The proposed TRO would reduce the speed limit along this stretch of road to 30 mph. I am mindful, in this regard, that paragraph 7.5.2 in MfS advises that the stopping sight distance for existing streets should be based on the design speed of passing traffic. In this case, the Appellant's observed 85th percentile speed at the site access was recorded as 25.8mph for westbound traffic. The formula in MfS indicates that a 34.8m visibility splay to the east would be required for traffic travelling at that speed. On that basis, a 40m visibility splay would be slightly in excess of the minimum required for the observed 85th percentile speed.
91. The main parties agreed the setting out for my site visit. It was measured from the northern side of the road, where the verge meets the hedge bank. The Rule 6 Party argued that if the 3.2m carriageway width is measured 'back' from the northern side, then the build out on the south side would be 'pushed back' and this could compromise achievable sight lines. This could be one explanation for my inability to see the full 45m visibility splay on my visit.
92. The Appellant submits that a wider build out could be provided to improve visibility to the east if deemed appropriate. However, from the observations I made at the site visit, and from all of the evidence submitted, I am satisfied that nothing more than a very small extension of the proposed build out into the carriageway would have been required to afford me full unimpeded visibility of the 40m splay demonstrated when stood 1.5m back from the kerb. Any change necessary would be wholly within the adopted highway. There is no reliable technical evidence to say that the consequence for the carriageway width beyond would be anything more than minor. The Rule 6 Party highway witness accepted in evidence that a 33m visibility splay to a 1m offset could be achieved. I have no doubt that a build out into the carriageway can be provided to achieve a 34.8m visibility splay to a 1m offset and that is the required standard.
93. From my observations on the site visit, the 3.2m carriageway would extend under the outer limits of the hedge on the northern side. The extent of metalled surface was not clear, but I did note that the stems of the plants appeared to be some way back. I would expect a good proportion of roots would be growing away from the carriageway into softer ground.
94. The Rule 6 Party accepted that the works may be within the highway, maintainable at the public expense and there is no evidence to the contrary. Nor is there evidence to say that a minor change to the build out would either require the removal of the hedge or bank on the north side or such cutting back that would adversely affect the hedge.
95. There are limitations with Stage 1 Road Safety Audits and it is not inconceivable that there could be minor errors in the topographical survey data. There could also be errors in Ordnance Survey map data and other measurements. However, the precise geometry of works within the public highway and ensuring that they were safe and suitable for all, would be subject to scrutiny and further consultation with appropriate consultees at the S278 stage.

96. The off-site works illustrated are not for determination at this stage. A minor change to the build out would not materially change the nature of the works within the public highway. The build out would attach to determinative site access works, but I am not persuaded there is evidence to say any potential impacts within the appeal site would be substantive. Nor would they change the nature of those proposals. To do so, or to move the access west, would be a departure from the access drawing before me for determination and could raise new issues which have not been addressed.
97. The proposal would not result in an increased level of use of Higher Town that would compromise the safety of all users, including school children walking to the village school. The introduction of a new cycle and pedestrian access with a build out in one location would not amount to street re-design and this is not a proposal to create a new shared surface. I also attach little weight to a suggestion at MfS paragraph 4.5.7 for connections for cyclists and pedestrians in cul-de-sac situations.
98. Neither the Highway Authority nor the Council raised an objection to this access. They took no issue with the NE access within the red line in terms of position, width, set back and other dimensions. Whilst concerns remain about the detailed specification for the proposed works in the highway, no substantive evidence before me suggests that the NE access would fail to provide safe and suitable access for all.
99. Although there is nothing in Policy SP2 specifically requiring an access in the NE corner of the site onto Higher Town, I note that in evidence to the MDLP Hearing for policy SP2⁵ as then proposed, the Council recognised Higher Town as offering an alternative route for pedestrians from the site to the village centre and providing the main walking route to the primary school.
100. I conclude that the provision of a pedestrian and cycle access in the NE corner of the site takes an appropriate opportunity to promote sustainable transport for all users, by enabling a convenient route between the proposed housing on the site, the primary school and places of worship. Without the NE access, the alternative routes to reach these places would feel convoluted and quite counterintuitive. A route via Pullet would involve land in other ownership and there is no certainty that it could be achieved.

Conditions and legal agreements reasonably necessary

101. The off-site works to Turnpike arise out of the requirements of Policy SP2 and relate to improvements that would also benefit the wider community. The necessary highway works, including footways, pedestrian crossing facilities, gateway features, signing and lining and associated works are directly and fairly related to the proposed development in scale and kind, and would be necessary to make the scheme acceptable in planning terms and to satisfy the requirements of the Development Plan. It is reasonable and necessary that those works should be required to have been constructed before development commences. The Appellant, Council and Highway Authority all agree that they could be secured by planning conditions. I have no reason to disagree. Schedule 5 of the S106 would duplicate the conditions and would not be necessary. It is reasonable and necessary though, that provisions for the TRO are secured by the proposed UU.

102. In light of my findings, a planning condition to not approve the NE access or to require exploration of other access locations off Higher Town would be neither necessary nor reasonable on highway grounds.

Conclusions on safe and suitable access

103. In combination, the NE, SE and SW accesses and the associated highway works the proposals would afford improved access to the village for pedestrians and cyclists by creating greater connectivity, and provide more choice for pedestrians and cyclists in how they move into and around the village from the west.
104. With appropriate conditions and the UU, I conclude that the Appellant has satisfactorily demonstrated that the appeal scheme would provide safe and suitable improved access to the village for pedestrians and cyclists and would satisfy MDLP Policy SP2 criterion g). It would create a safe and accessible place that would encourage and enable sustainable modes of travel such as walking and cycling and would meet requirements of Policy DM1 d) and Policy S1 criteria e) and h) to, amongst other things, to create safe and accessible places that also encourage and enable sustainable modes of travel such as walking and cycling; and advice at paragraphs 108 and 110 of the National Planning Policy Framework (Framework), which together and amongst other things also require that appropriate opportunities are taken to promote sustainable transport modes and provide safe and suitable access to the site for all users.

Effects upon Heritage Assets

105. The issue relates primarily to effects of the NE access. Ms Rouse, the expert landscape and heritage witness for the Rule 6 Party, provided separate heritage and landscape evidence. Ms Rouse found that pedestrian access arrangements from the site onto Higher Town and a route across the GI would have greater landscape and visual effects than had previously been recognised, due to the proposed removal of a length of high banked hedgerow and through the introduction of the new cutting and urbanisation of the lane with built out kerbs and street infrastructure, including bollards. At the Inquiry, Ms Rouse argued that a loss of rurality and sense of enclosure would leave a major/moderate landscape adverse effect and moderate adverse visual effect after 15 years.
106. In her heritage evidence, Ms Rouse concluded that the works proposed would significantly and detrimentally change the sense of enclosure and impact upon the enclosed view out of the Sampford Peverell Conservation Area (CA) along Higher Town and adjacent to the Listed Building, No 42 Higher Town. Ms Rouse argued that this major change to the setting of the CA and listed building (LB) at this location, would have major adverse effects on significant features of these heritage assets.
107. S66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that, in considering whether to grant planning permission for development which affects a listed building or its setting, special regard is to be had to the desirability of preserving the building or its setting, or any features of special architectural or historic interest which it possesses.

108. In relation to land and buildings within conservation areas, S72(1) of the same Act requires that special attention is to be paid to the desirability of preserving or enhancing the character or appearance of that area. However, there is no statutory requirement to have regard to the setting of conservation areas. That said, paragraph 190 of the Framework requires an assessment of the significance of all heritage assets which may be affected by a proposal, including development affecting the setting of a heritage asset.
109. MDLP Policy DM25 relates to development affecting heritage assets. DM25 d) provides that, where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.
110. Policy SP2 Criterion b) requires landscaping and design which respect the setting and character of the area, conservation areas and listed buildings. Criterion f) requires 2.5ha of GI to be laid out and managed with landscaping and open space. Explanatory text to Policy SP2, at paragraph 3.224a, includes *"the site is elevated and will require careful landscaping and mitigation measures. Development of the highest ground should remain as undeveloped green infrastructure."* It also acknowledges that some loss of boundary hedgerow will be required to enable access for development of this site and infers that careful design could minimise this impact, including incorporating new hedgerow into the design of the development.
111. The Glossary of the Framework defines significance as the value of a heritage asset to this and future generations because of its heritage interest. The setting of a heritage asset is defined as the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve.
112. No 42 Higher Town adjacent to the NE corner of the site, is a grade II listed building (LB). The Listing refers to it as a former farmhouse of late C16 to early C17 and describes the construction and layout of the building. The house has a large projecting front lateral stack, whilst to the rear is a projecting newel stair turret. The primary elevation faces the road, and the parties agree that an outbuilding adjacent to the road (described as a barn elsewhere in this decision) is partly within its curtilage. There is little in the way of evidence about any associated land or external areas. A limed wall of one side of the curtilage listed barn adjoins the carriageway.
113. Whilst I heard much about the development of the village, the burgage plots, land ownership and tenancies, there was no substantive evidence to demonstrate any direct functional link between the principal LB or curtilage listed barn and the appeal site. Nevertheless, I recognise that the description of the building refers to it as a farmhouse. All in all, I consider that the heritage significance of the LB lies mainly in its historical form and architecture.
114. Two historical cottages, Nos 44 and 46 Higher Town, adjoin the LB to the south and together they form an "H" shaped group of cottages. I was advised that there are flying freeholds between 42 and 44. Historic England Advice Note 10 'Listed Buildings and Curtilages' explains that the courts have held that there are three key factors to be taken into account in assessing whether a structure or object is within the curtilage of a listed building: the physical layout of the listed building and the structure; their ownership, both historically

and at the date of listing; and the use or function of the relevant buildings, again both historically and at the date of listing.

115. The northern part of the barn, and Nos 44 and 46, are recognised as important non-designated heritage assets. From the evidence before me, and my site visit observations, their significance is in their retained historic cottage character and an evident historical relationship with the LB. Whilst there is insufficient evidence to conclude that they are curtilage listed, I have adopted a precautionary approach and my approach to considering effects upon Nos 44 and 46 is consistent with that for the LB itself. Their principal elevations face away from the appeal site, although they do have windows looking out across the fields.
116. The appeal site, including the proposed NE access, and the proposed associated highway works referred to earlier, are not within the CA, but Nos 42, 44 and 46 Higher Town are. The boundary runs between them and the appeal site. The Sampford Peverell Conservation Area Appraisal (Appraisal) advises that the main historic core centres around the church and the development lining the main road frontages through Higher Town and Lower Town, with the church providing a focal point. The Appraisal notes that Turnpike and Higher Town are 'wider roads'. Other roads are noted as quite narrow with few footways, often enclosed by tall stone retaining walls, which gives an enclosed and intimate character when moving through the area. The views out from Higher Town to open countryside towards Sampford Barton, with its range of traditional farm buildings, underlines the agricultural origins of the village. The row of older cottages built close to the road on rising ground on Higher Town are noted as indicating the extent of the historical development of the settlement west along Higher Town.
117. Historic maps confirm that there have been strip fields on the appeal site. A pedestrian access runs along the west side of the LB and Nos 44 and 46, giving access to a garden to the south, but there is scant evidence of historical access to the farmed land from here and principal elevations face away from the appeal site. The strip fields here are not those referred to in the Appraisal. The contribution that the appeal site makes to the significance of the CA is only in so much as contributing to an appreciation of the rural setting along Higher Town.
118. Aside from some remnant hedgerow, there are few signs of the medieval strip fields on the appeal site. They have been amalgamated to form larger open fields. The landscape of the strip fields depicted on the cartographical evidence might have looked and been used quite differently to the present farmed landscape.
119. In the locality of the LB and curtilage barn views are enclosed, and the appeal site is hidden behind tall hedgerows, but there is an awareness of an absence of development beyond and a feeling of having left the village.
120. In views towards the village, the barn is set low and the eye is drawn to a taller building beyond. The first-floor chimney stack of the principal elevation and parts of the roof of the LB are glimpsed. Hard surfaced access, overhead wires, cable poles, and signage are all present. The road has a modern bitumen surface with some service infrastructure. Parked cars in the carriageway can be seen. The views are relatively short and even for pedestrians would soon be past.

121. I find that the contribution that the appeal site makes to the significance of the LB and adjoining historic cottages is to an appreciation of the historic setting of the LB and cottages on the edge of the settlement in a rural setting. The contribution that the road corridor makes to the significance of the LB and curtilage barn is to an appreciation of the historic setting of the historic farmhouse and barn adjacent to a route leading into/ out of the village.
122. No works or development would be undertaken within the CA and as noted above, S72 (1) of the Act does not provide any statutory protection for the setting of conservation areas. Since no works are proposed to the physical fabric of the LB, the barn or curtilage or to 44 and 46, there would be no direct harm to these heritage assets.
123. An illustrative layout indicates housing within the area indicated on the Adopted Policies Map, where it would appear more as an extension of the settlement along Turnpike rather than Higher Town. Residential development would be some distance from all of the heritage assets, on lower ground. A large area of open GI on higher ground would be retained to the north, extending up to the NE corner, between the dwellings proposed and the heritage assets.
124. A route would be required through the GI to reach the access. Works would include contoured cutting, landscaping, security fences and lighting. There would be use by pedestrians and cyclists. But the area of GI would be large and open, and this is a site that is specifically allocated for housing in the Local Plan. A build out gateway, signage and new lining would all be within the road corridor and mostly within the plane of the carriageway. Signage and lining would need to be seen to be effective, but there is no reason why it should be noticeably different from existing features.
125. Built form, topography and vegetation would significantly limit views from the principal LB of the works to the access and in the road corridor. There would be a view from Higher Town towards the settlement, where the highway works and access would be seen in the foreground and in close proximity to the curtilage listed barn, with a view of the upper part of the LB behind. There would also be some intervisibility between the LB, Nos 44 and 46 and the GI within the site, including works to form a route to the NE access.
126. The initial effects of the removal of a section of bank, and the construction of regraded and new banking, and installation of necessary infrastructure, would appear stark in some views, such as that depicted by Ms Rouse's Figure 4. However, I found the quality of the view is already diminished to some extent by modern detracting features. Whilst the Rule 6 Party referred to a drawing in Mr Hammond's evidence, Appendix I, as evidence of likely impacts I found that the image presents an unrealistic viewpoint which I very much doubt a person stood on the lane would see. Rather I find that the access and highway works would be seen in the context of the road corridor. Physical effects could be mitigated by careful specification of design and materials at a later stage. With landscaping to re-establish the hedge banks the works would, over time, meld into the topography and vegetation of the locality.
127. Although there would be regrading works in most views, the hedge would appear continuous, and the gap only seen when almost alongside it. A limited view of a gap and a hard surface would not be out of keeping with other accesses along Higher Town. The character of the lane would be maintained.

The effects on the LB and curtilage listed barn would be limited by the buffering effect of the northern end of the barn. The setting of the barn is already diminished to some extent, by the tarmac surface, parked cars and other services and infrastructure. An open setting to the west of the LB and cottages would be retained and an appreciation of the LB and historic cottages on the edge of the settlement and within open land maintained.

128. The effects of the proposed access and GI with a route through upon the rural setting to the west of the LB and Nos 44 and 46 would be limited and, in the language of paragraph 196 of the Framework, any harm would be less than substantial. I have found that the setting to the west makes a limited contribution to the significance of the LB and Nos 44 and 46. It follows that I find some limited harm to the significance of these assets. These limited adverse effects would amount to less than substantial harm.
129. The effects of the proposed access and highway works upon the rural lane setting of the LB and its curtilage listed building would be at the lower end of less than substantial. These very limited adverse effects would also have a less than substantial effect upon the significance of the LB and the curtilage listed barn.
130. Ms Rouse argued that effects of the loss of high hedge and introduction of urbanising build out and kerbs would be dramatic, significantly changing the enclosed view causing a major adverse effect upon the CA which would remain substantial over time. However, the works to create the NE access would all be outside of the CA and very localised. They would not affect the narrower roads or important views noted in the CA Appraisal. There would be a small adverse effect upon the appreciation of the extent of the historical development of the settlement west along Higher Town but no effect upon the appreciation of the oldest part around the Church, the row of cottages built close to the road, or noted views of the rural setting of the CA. The effect upon the character and appearance of the CA as a whole would be very limited and less than substantial in terms of any effect on its heritage significance.
131. Landscape receptors include the designated heritage assets and in this way the landscape is highly sensitive. Whilst Ms Rouse argued at the Inquiry that there would be major/moderate adverse effects, I found that the short views along the lane are diminished by modern detracting features. Key attributes of alignment and sunken character with roadside hedgerows would be retained. With time, new planting would partially mitigate effects and help meld development into the landscape. All the works would be seen in the context of the road corridor. The works would add to the engineered nature of the carriageway but otherwise the composition of the view would be largely unchanged. The very localised landscape impacts would initially be major/moderate adverse at most, reducing to minor at most over time. Pedestrians and cyclists using Higher Town for recreation purposes would be soon past this area. For the short duration in which they would experience the works, the residual effect for visual receptors would also be minor.
132. Residential development and the road would be some distance away from the north east corner of the appeal site. In the NE corner the character would remain generally open and could be wild depending upon details to be approved at a later stage. Even with a route running through it, the residual

landscape effect might be different, but any impact in this regard would be no more than minor adverse.

133. The Rule 6 Party argued that the Appellant's LVIA evidence was inadequate. Amongst other things they pointed to an independent review of the application LVIA by Cornwall Environmental Consultants which was critical that the LVIA had not addressed the impacts of the NE access and had recommended that there should be no raised paved areas or excessive signage. They also considered that the Appellant's LVIA for the appeal had failed to assess some impacts properly.

134. Guidelines for Landscape and Visual Impact Assessments, third edition (GLVIA) are just that, guidelines, and are non-prescriptive. I am satisfied that the totality of the evidence that is before me on this, combined with my own observations during the site visit, has provided me with sufficient information to be able to assess the significant potential impacts and come to a properly informed conclusion in this regard.

In the locality of the canal bridge area

135. In the canal bridge area, the proposed new footway would be alongside tall walls within the CA. Some are recognised in the CA Appraisal as features of special importance and as heritage assets. They are a combination of attractive stone walls with raised open space behind, which creates an attractive area that is visible from the road and makes a positive contribution in the CA.

136. The footway would be in the existing carriageway which abuts the foot of the walls. It would be seen within the plane of the carriageway. It would have no effect upon any appreciation of the tall walls and the open space behind. There would be no effect upon the character or appearance of the CA or its heritage significance.

The Grand Western Canal Conservation Area (GWCCA)

137. The GWCCA is a Country Park and a valued landscape and lies less than 1km to the south of the appeal site. Its significance derives in part from its setting within a rural landscape in between settlements. Walking along the canal tow path, I found that existing built form on the edge of Sampford Peverell was present in most views. The back of a ribbon of development along Turnpike interrupted most views toward the appeal site. No 16 Turnpike is within the GWCCA and lies to the south of the eastern end of the site. The illustrated layout indicates that the eastern part of the appeal site would be open space of one form or another. Existing development on Turnpike would partially screen and limit views of development on the site, where seen it would be behind or beyond existing built form. The Council had withdrawn any objections about effects upon the significance of the GWCCA before the Inquiry and at the opening the Rule 6 Party did so too. I find no reason to disagree.

Heritage Assets conclusions

138. The harms to heritage assets that I have found would be minor, when considered individually and collectively and in all instances, would be less than substantial. Both the Framework and criterion d) of Policy DM25 require that where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, the harm should be weighed

against the public benefits of the proposal, including securing its optimum viable use.

139. The appeal site is allocated for the scale of development proposed in an adopted Local Plan. The application is in outline with all matters save for access reserved. Although I have found some limited level of harm, I conclude that with appropriate landscaping and design the proposals would satisfactorily preserve and be respectful of the setting and character of the CA, LB and non-designated heritage assets and I find no conflict with requirements of Policy SP2 b) and no conflict with requirements of Policy DM25 a) b) and d) or requirements of Policy DM1 a) c) and e) to ensure design is of a high quality and amongst other things demonstrates a clear understanding of the characteristics of the site, its wider context and makes a positive contribution to local character including the setting of heritage assets and creates visually attractive places that are well integrated with surrounding buildings, streets and landscapes. Nor do I find any conflict with Policies S1, S9, and S14 which require, amongst other things, good sustainable design that respects local character, heritage, surroundings and materials, to sustain the distinctive quality, character and diversity of Mid Devon's environmental assets, that development outside the settlements to preserve and where possible enhance character and appearance.
140. The NE access and GI are outside of the settlement boundary, but I find no conflict with requirements of Policy S14 to preserve and where possible enhance the character, appearance and biodiversity of the countryside. Heritage assets and their settings are an irreplaceable resource and considerable weight must be attached to any impact upon a designated heritage asset. I have noted that in APP/Y1138/W/19/3235159 concerning a development at Halberton, which was drawn to my attention by the Rule 6 Party, the Inspector found that the public benefits did not outweigh the harms. I do not know all the nuances of that particular case, but each case gives rise to different harms to different assets, with different benefits to be weighed against those harms. I have no way of knowing whether the circumstances in that case are directly comparable to the circumstances that prevail here. I confirm in this regard, that I have considered the appeal scheme and its effects on the heritage assets, on its own merits. I return to weigh the harms that I have found against the public benefits of the appeal scheme later.
141. Some residual minor adverse landscape and visual impacts would be very localised and include consideration of the heritage assets considered above.

Effects of the proposed vehicular access upon the delivery of GI and on the setting and character of the area

142. The Appellant confirmed that the appeal site, including the GI, is consistent with "the site of 6ha" referred to in Policy SP2. The Adopted Policies Map denotes the settlement boundary around the existing built-up area and the proposed residential area. The GI is beyond this line. Explanatory text at paragraph 3.224a includes that development of the highest ground should remain as undeveloped GI.
143. The appeal scheme includes vehicular access from the link road. To form the access and visibility splays, a wall would be breached. To access the housing, the road would cut across the GI and some of the highest land on the site. The wall is attractive, but there is little to indicate that it is of particular

significance. The appeal scheme includes new walls and localised land contouring.

144. GLVIA includes advice that judging landscape effects requires a methodical assessment of the sensitivity of the landscape receptors to the proposed development and the magnitude of effect which would be experienced by each receptor. Landscape elements can include perceptual characteristics, such as openness, and these may affect the value ascribed to a landscape. The concept of openness in this regard, is not limited to Green Belts.
145. The Appellant's LVIA for the Inquiry considered the effect of development upon a number of landscape receptors, including the link road. The latter was focussed on road infrastructure and a minor adverse effect was found. An initial moderate adverse effect was recorded for visual receptors on the link road. Mr Drew addressed landscape receptors somewhat more broadly and concluded that there would be a moderate/major adverse impact upon landscape receptors of openness landform and land cover. Mr Drew's overall conclusion of a moderate/major adverse effect to landscape character had taken into account earth works on the slope for the housing, and the irreversible change from countryside to housing. The Rule 6 Party did not dispute the effects of the proposed housing at the Inquiry and had withdrawn most of its landscape evidence.
146. I walked the local roads several times and the site twice. Landscape judgements are subjective, and I have made my own based on all of the evidence before me and my own observations. In the context of a 6ha site with 2.5ha of GI and 60 dwellings, the size and scale of the proposed access road would be small. Regrading works would be localised. Similar regrading works might be required to form the pedestrian and cycle routes. Works would look stark upon construction and so some initial moderate to high adverse landscape effects within a localised area around the vehicular access are to be expected. However, that would be a consequence of any residential development scheme on this allocated greenfield site.
147. The explanatory text at paragraph 3.224a also infers that careful design and landscaping can mitigate the effects. I agree. I find no reason to conclude that the effects could not be satisfactorily mitigated through detailed design. In time, the access and road would appear entirely in keeping with the landscape of the edge of settlement residential development.
148. The access road on the appeal site would be a flat feature with very few vertical elements. The Adopted Policies Map contemplates residential development up to the western site boundary and illustrative layout 1238.04B 30.7.2020 indicates some housing within this area. With development, localised topography and vegetation, together with housing in the residential area and new landscaping would all combine to screen views of the access road, including in views from Battens Bridge in the GWCCA and the road north.
149. Where seen, the road would not break the skyline or compromise perceptions of openness. Seen in the context of a new residential development, the access and road through a belt of GI would not compromise the edge of settlement character and appearance.
150. Mr Drew's photographs 10a and 10b illustrate views from the link road of the Blackdown Hills, an Area of Outstanding Natural Beauty. On my visits I found

that save for the gateway view, I had to peer through and over vegetation. The views are distant. As well as the outline of the hills, large-scale development can be seen in the distance. The outline of the hills on the skyline is attractive and the link road may form part of cycling and walking routes. There is nothing, however, that leads me to the conclusion that these are especially important or significant views.

151. With development, the access road would be prominent in these brief short views, with new housing interrupting and screening views. But new views would also open up. It seems to me that users of the GI and the NE access would be able to take in distant views of the Blackdown Hills. A minor adverse impact for visual receptors on the link road, where the primary focus is the road itself, could be fully compensated for by careful design to create new views, particularly for pedestrians on paths and people in open space and GI.
152. The GI on the highest land would wrap around the proposed housing, protecting skylines and the rural setting and character of the settlement. A short section of road would not compromise this. Lighting would make the road more visible in some views, but there would be lights on in houses at most times when streetlights or car lights were on. Street lighting would be a matter which would be dealt with at a later stage and could be carefully planned to mitigate impacts. The proposed access would be within the allocated site of 6ha.
153. The explanatory text states that "*development of the highest ground should remain undeveloped green infrastructure*". The Rule 6 Party argued that would include all building and engineering operations as in the definition of development at S55 of the 1990 Town and Country Planning Act.
154. But paragraph 3.224a is explanatory text and the Adopted Policies Map is an illustration. Neither are part of the policy itself. Policy SP2, the accompanying text and the map are all silent as to where the vehicular access should be. There is nothing to say that vehicular access from the highway must be directly into the residential area shown on the Adopted Policies Map. Nor is there anything to say that a vehicular access and associated works across the GI cannot take place within the GI.
155. I find nothing in Policy DM26 for GI in major development to say that an access road through a proposal for GI would conflict with the policy. Policy DM26 provides for public rights of way to link the allocated site to the wider GI network, to provide walking and cycling opportunities. Policy SP2 criterion c) expressly requires public rights of way on the appeal site to link the site to the wider GI network. Such features would require engineering and building operations.
156. Policy S14 provides for appropriate rural uses in the countryside outside settlement boundaries and seeks to preserve and where possible enhance the character appearance and biodiversity of the countryside. Criterion e) provides for a number of types of development in the countryside including transportation and infrastructure. The access road would be outside of the settlement boundary, but there is nothing to say that criterion e) is limited to community facility transport works and I find no conflict with Policy S14 and no tension between SP2 and S14.

157. It is not uncommon for GI networks to comprise separate parcels of land, or for them to be crossed by roads or other development. The amount of land that the access road would take to cross the GI is small. There is no persuasive evidence to say the road would thwart the ability of the Council to achieve satisfactory landscaping and biodiversity at the detailed stage, with nothing in SP2 to say that the 2.5ha of GI must be provided in full in the green area on the Adopted Policies Map. I am firmly of the view that the scale and extent of access works would not cause material harm to the landscape or compromise the integrity of the GI areas across the site and requirements of Policy SP2.
158. The S106 defines the GI to be provided as an area or areas of informal open space, which may include the provision of footpaths and accessways as may be agreed by the Council, of not less than 2.5ha in total to be provided according to the OSS on the GI land. Together with the OSS, this would enable the Council to ensure that 2.5ha of GI is delivered with suitable landscaping which respects the setting and character of the area and provides a network of multi-functional open and green space with recreational, visual and ecological value as required by Policy DM26. I have no reason to suppose, based on the evidence that is before me, and being mindful that this is an allocated site, that street lighting, or noise and pollution from the vehicles associated with the proposed 60 dwellings, would materially prejudice the GI.
159. The illustrative layout indicates that the development would be concentrated on the lower part of the site, with a large area of GI on the higher ground wrapping round from the west to the NE corner. It demonstrates an understanding of the characteristics of the site, the wider context and the surrounding area in accordance with Policy SP2 and the Sampford Peverell Policies Map.
160. There is nothing to say that the eventual design of the new development would not be of high quality – indeed, that would be in the hands of the Council were the appeal to succeed – or that it would not be visually attractive with buildings, streets and landscapes that make a positive contribution to local character. In this way I find no conflict with requirements of Policies DM1 or S1 for good sustainable design that respects local character and surroundings and provides access to high quality open space, and other green infrastructure, and the requirements of DM26 to demonstrate that new green infrastructure will be incorporated within the site with biodiversity mitigation and green corridors and public rights of way to link the site to the wider GI network.
161. The Rule 6 Party's expert planning witness, Mr Drew, argued that there were other preferable access points, which would have less landscape impacts. However, serving the site from the southeast had been ruled out because of the harm to the setting of the GWCCA. There is nothing in the way of robust technical evidence before this Inquiry to demonstrate that the alternative suggested access points further west along Turnpike are feasible or indeed what any visual impacts might be. On my site visits I noticed that there are noticeable level changes between the south side of the site and this section of Turnpike. There could be several adverse implications of taking access from here including landscape, on which I have no substantiated evidence. In light of my findings above I do not consider that there is an onus on the Appellant to have explored other options.

162. I conclude that the proposed vehicular access would cause no conflict with the requirements in MDLP Policy SP2 for the delivery of GI and the need to protect the setting and character of the area. I find the proposed vehicular access to be consistent with Policies DM26 and S14. I also find no conflict with requirements of Policy DM1 and S1 which include to create high quality visually attractive places that are well integrated with surrounding landscapes and good sustainable design that respects local character. Nor have I found conflict with aims of Policy S9 to sustain the distinctive quality, character and diversity of Mid Devon's environmental assets through the preservation and enhancement of the distinctive qualities of Mid Devon's natural landscape.
163. There would be no conflict either with advice at paragraphs 127 and 170 of the Framework, including that development should be sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change, and that planning decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside, the wider benefits from natural capital and ecosystem services and minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.

Other Matters

Living conditions

164. Nos 42, 44 and 46 Higher Town are residential dwellings. Photographs were submitted to the Inquiry to illustrate their relationship with the appeal site. During the accompanied site visit, I made an internal inspection of No 44.
165. The rear elevation of No 44 has windows to single aspect habitable rooms facing the appeal site. There are two first floor level bedroom windows, and windows to a lounge and kitchen-dining room at ground floor. The bottom of the ground floor windows is noticeably below the level of the appeal site. The first-floor windows did not appear to be much higher than the site. All windows offer views over open fields, with large amounts of sky visible.
166. The lower part of views from the ground floor windows is occupied by the bank at the side of the appeal site. People on the site could be seen over. Whilst standing inside the bedroom on my visit, people on the appeal site did not appear to be that much lower.
167. Housing would occupy part of the views which are presently rural, but it would be a fair distance away on falling land. GI in the area adjacent to the existing properties would keep views predominantly open. Policy SP2 f) requires some 2.5ha of GI to be laid out and managed with landscaping and open space. Policy DM25 refers to biodiversity purposes. Not all of the GI has to provide public access and there was no objection from the Appellant to designing the GI so as to exclude people from the area adjacent to these cottages.
168. An appropriately specified landscape scheme, perhaps including brambles, could provide low ground cover, be of biodiversity interest and act as a deterrent and generally keep people away. Privacy and security could be reinforced with fencing. It could be kept low key, such as a stock proof post

and wire fence, which would not dominate or obscure views from windows. I find no reason in principle as to why a gate for maintenance would necessarily attract users away from the access route and into the GI. Lighting of the access route could be carefully controlled. These are all detailed matters that would need to be designed and planned at a later time and which the S106 would secure.

169. I recognise, however, that there is nothing to stop people farming the land from coming within 3m of these windows and I am mindful that people on the access track would be able to look into the windows - due to topography, the line of sight would be quite level with the first-floor windows. However, the windows are quite small and the walls quite thick. The views would generally be oblique and away from the primary direction of travel of those on the appeal site. The route would drop into a cutting approaching the access and not all views would be from elevated positions. The location of the access at the NE corner is determinative and therefore it is implicit that a route to reach it would be necessary. But that is not to say it would have to be exactly as illustrated at the Inquiry. I am satisfied that it could be satisfactorily resolved at the detailed stage.
170. Soft and hard landscaping could also be considered to mitigate the views at detailed design stage. I found that the view of sky from the ground floor rooms draws the eye up. I am not persuaded by the Rule 6 Party's submission that planting over 0.4m tall would be devastating to that outlook. I agree that trees and tall fencing could compromise outlook, and there would need to be compromises between retaining outlook and securing privacy, but I am not persuaded there would necessarily be an unreasonable loss of security, light, outlook or privacy. In any event, there is currently no control over the height of any vegetation on this part of the appeal site.
171. No 42 has a ground floor kitchen window in the side elevation facing toward the site. It is used as the main dining room. Views are restricted and limited and the dwelling faces primarily north towards the road. North facing views are screened and limited by the barn on the roadside, and at ground floor level look into the relatively enclosed courtyard. There would be views over the top of the barn from first floor windows. These views already encompass the road.
172. No 46 has a kitchen-dining room window and a first-floor bedroom window facing toward the site. There would be views over the site from here, but both rooms have other windows, and the main windows appear to face south, overlooking the garden. There would be views towards the appeal site from the garden and oblique views from south facing windows. The housing would be seen at some distance. There would be GI in the intervening gap and people on the access and cycle route. Not all GI would be publicly accessible, and the route of the cycle/way path is yet to be determined. The garden is of sufficient size that the occupants could screen the boundary if they had a perception of overlooking. I am mindful in this regard, that people farming the land might work in this area and crops could be grown that might enclose the views, as is the case presently.
173. The proposal would result in an initial minor/moderate adverse visual impact for occupiers of Nos 42 and 46 Higher Town. Overall, the harm to living conditions would be limited. There would be an initial moderate/major adverse visual impact for occupiers of No 44 but the overall impact upon their living

conditions would be less. With an appropriate design and landscaping scheme, visual impacts would reduce over time and the effect upon their living conditions would not be unacceptably adverse.

174. I do not know all the details of appeal APP/Y1138/W/17/3166458 drawn to my attention, concerning a proposed residential development to the south of 42-46 Higher Town, but from my reading of the decision, it appears that it concerned a much closer physical relationship between the existing and proposed dwellings than is the case in the current appeal. On that basis, it is not directly comparable with the appeal scheme, which I have considered on its own merits.
175. The proposals would comply with requirements of Policy DM1 a) e) and g) including that new development does not have an unacceptably adverse effect on the privacy and amenity of the proposed or neighbouring properties and uses. With 2.5ha GI secured in the S106, much of which would lie between the existing dwellings and the housing proposed, I am content that the appeal scheme would not have an unacceptable adverse impact on the occupants of Nos 42, 44 and 46 Higher Town. I find no conflict in this regard with the advice at paragraph 127 f) of the Framework that the design of new development should create a place that would, amongst other things, provide a high standard of amenity for existing users.
176. Letters have been received from the occupants of all three dwellings informing me that they would support a condition which did not approve the NE access. The Rule 6 Party put forward a form of words for a condition to this effect. I have found that the proposals would not have unacceptable adverse impacts upon the living conditions of the occupiers of Nos 42, 44 and 46, and I have found no conflict with requirements of Policy DM1. I conclude that it would not be reasonable or necessary to impose a 'severance' condition to not approve the proposed NE access applied for or to require exploration of other access locations off Higher Town.

Affordable and self build housing

177. Policy SP2 criterion a) requires that 30% of dwellings on the site are affordable. MDLP Policy S3 criterion b) seeks a target of 30% affordable dwellings on sites of 6 dwellings or more, providing an appropriate mix of dwelling sizes and types. Criterion d) also requires a supply of at least 5% of serviced dwelling plots for sale to self-builders for a period of 12 months per plot, with any plots subsequently developed for self-build required to be completed within three years of purchase by a self-builder on sites of 20 dwellings or more.
178. The S106 would secure either 30% or 35% Affordable Dwellings. The provisions to provide 30% Affordable Housing would also secure an additional 5% of serviced dwelling plots for sale to self-builders. 30% affordable housing would accord with provisions of Policy SP2a) and S3 b), and 5% serviced plots for self-builders would accord with Policy S3d). Therefore, in the event of a grant of outline planning permission this covenant should prevail.

Site location sustainability

179. Although the main parties had accepted the general sustainability of the site before the Inquiry, some interested parties, including those who spoke at the

Inquiry questioned the general sustainability of the site. Even though the Rule 6 Party had accepted the principle of development, they argued at the Inquiry that (i) The Council "*has qualms over the allocation*"; and (ii) that I should question: "*the suitability and sustainability of the site*".

180. Policy S13 of the MDLP designates Sampford Peverell as a village with a limited level of services and suitable for limited development. The appeal site is an allocated housing site in a recently adopted Plan. The services and facilities include a shop, primary school, religious, medical and recreational facilities. Tiverton Parkway train station is only a short distance out of the village. It may be that the appeal site is on the other side of the village from some services and facilities, but they would be within a comfortable walking distance for most. The Council did not contend the general sustainability of the site at the Inquiry in terms of accessibility of future residents to services and facilities, and I find no reason to conclude that the site's location is not generally sustainable.
181. There is a large library of evidence regarding the consideration of the site during the Local Plan process. Much of it was not material by the time of the Inquiry, in the light of the adoption of the MDLP. The main parties all agreed that the statutory test requires that applications for planning permission are determined in accordance with the current development plan unless material considerations indicate otherwise. It is not for this Inquiry to review the Local Plan process in terms of the sites that were considered, or the decisions that were made at the various stages.
182. The Parish Council was keen to stress that although, in a response to a site options consultation from MDDC in 2014, it had stated that the Higher Town site (appeal site) was the best situated of those offered, that was for no more than 20-25 new dwellings in line with the Sampford Peverell Parish Plan 2009. That was not to say that the Parish Council "liked" the appeal site as a development site and the Parish Council did not support the allocation of the appeal site for 60 dwellings. Moreover, it supported the reasons for refusal and objected to the proposal on other grounds, including ecology, living conditions, and impact on heritage assets. I have taken those views into consideration in my determination of this appeal.

Ecology

183. At the Inquiry the Rule 6 Party confirmed it would not be pursuing ecology objections. However, the Parish Council and other interested parties argued that the work undertaken by the Appellant in this regard was inadequate and dated. Circular 06/2005, '*Biodiversity and Geological Conservation – Statutory Obligations and their impact within the planning system*' includes advice that the extent that protected species may be affected by the proposed development is to be established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.
184. Outside of the delineated western field, an area of west facing bank has habitat potentially suited to a population of reptiles. A report undertaken by Ecological Surveys Ltd dated May 2018 assumes potential presence. The Council is satisfied with the ecology proposals. As the survey assumes presence, I consider the advice in Circular 06/2005 is met and were the appeal to succeed, a condition could secure the recommended mitigation measures.

185. There is one outlier badger sett on the northern boundary of the appeal site, but no evidence in areas of such within the proposed housing development, and there is no reason to suppose that an appropriate non-impacted zone could not be provided. Mr Drew shared his knowledge of bats in the locality, but the Appellant's ecology survey had found no evidence of roosting or foraging on the appeal site. A condition requiring lighting details would enable any potential effects to be adequately mitigated. I find no evidence to say that the proposals could not satisfy requirements of Policy DM26 for provision of GI and biodiversity mitigation and net gain, and advice in paragraph 170 of the Framework, including that development should minimise impacts on and provide net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.

Drainage and flood risk

186. The Rule 6 Party and others were concerned that the Appellant's flood risk assessment had failed to assess the likely impact of groundwater runoff at the north east corner of the site. The detailed design of the appeal scheme would include drainage proposals and there was no technical evidence to demonstrate that the proposal would result in flooding onto Higher Town or exacerbate problems with an off-site drain opposite the NE access.

187. Interested parties were concerned about the potential for flooding from the site generally and evidence was put before the Inquiry about previous flooding events in the locality, including a breach of the Grand Western Canal. Mr Dumble, a Chartered Geologist, and Hydrogeologist with a professional interest and expertise in groundwater monitoring, informed the Inquiry about local geology and ground conditions. He queried the evidence from soakaway tests in five trial excavations, and a failed percolation test in one and argued that lower percolation rates would mean that highway soakaways and attenuation tanks would need to be larger than stated. A Flood Risk Assessment and Drainage Strategy for the proposed residential development had addressed consequences of 'half-drain down' time test results for the highway soakaways and the designs of the infiltration systems comply with national guidance. Notwithstanding this should the Lead Local Flood Authority require a 24hour half drain down time for the 100 year plus 40% event, this could be achieved by a modest increase in plan area. I am mindful in this regard that there were no objections from the Council or the Lead Local Flood Authority, who together have responsibility for such matters.

188. The National Planning Practice Guidance sets out a hierarchy of drainage options to promote the use of Sustainable Drainage Systems (SuDS) the aim being to discharge surface run-off as high up the hierarchy as possible. Whilst the detailed design would follow the drainage hierarchy, with a preference for SuDS first, the proposed positive drainage strategy includes an option to provide a larger storage tank if required. The tanks would be subterranean and there was no substantiated evidence to say that they, or other SuDS features would result in high bunds or other earthworks. Detailed design would be for a later stage. From the evidence before me and all I heard at the Inquiry, I find no evidence to say that the proposal could not satisfy the requirement of SP2c) to provide a drainage strategy, utilising SuDS if practicable, to deal with all surface water from the development, including arrangements for future maintenance and similar requirements at paragraph 163 of the Framework.

189. A great number of appeal decisions were drawn to my attention. Some related to situations before the MDLP was adopted, for example APP/Y1138/W/18/3214685, APP/Y1138/W/19/3235159 and APP/Y1138/W/18/3214685. Others related to highway safety and character and appearance matters which are all very much dependent upon the specific site and its locality. I know little about the sites the subject of those appeals, including APP/Y1138/W/17/3167891, APP/J1155/W/17/3184835 and APP/Y1138/W/19/3232381, the decisions on which will have been taken having regard to the respective site-specific contexts. I have no way of knowing for instance, whether any of those sites are directly comparable with the appeal site.
190. A considerable amount of material was submitted to the Inquiry by the Rule 6 party and others, referring to wide ranging matters, many of which do not relate to the determinative issues in this case. It is also necessary to place them in the context of the principle of the development proposed on this site having been established through its allocation in the MDLP. Moreover, as the courts have established, I am not required to deal with every single issue raised. In this case, much of the evidence submitted relates to events prior to adoption of the current local plan. The Plan was adopted before the Inquiry opened and much of what went before is no longer relevant. In addition, a substantial amount of the material submitted relied upon inference and interpretation. I have addressed the principal important controversial issues from the starting point of the adopted development plan.

Planning conditions and legal agreements

191. The UU is necessary to secure the TRO proposals which I have found to be integral to achieving a satisfactory and safe development. The S106 provisions, save for schedule 5, are required in order to provide for improvements to services and facilities as a consequence of impacts arising from the development and to comply with the requirements of MDLP Policy SP2 and achieve a satisfactory and reasonable development in all other respects.
192. I have made amendments to a number of the suggested conditions to achieve greater consistency with advice in the Planning Practice Guidance to ensure that the wording is precise and clear, and the conditions are enforceable.
193. Conditions 1-3 require the reserved matters to be submitted within 3 years and set timescales for commencement. They are necessary to accord with s92(2) of the Town and Country Planning Act 1990 as amended by Section 51 Planning and Compulsory Purchase Act 2004. Inclusion of attenuation pond in condition 1 is a reasonable clarification. The parties agreed that other detailed matters should be subject to separate conditions. In the interest of visual amenity, condition 4 specifies additional landscape details that are necessary to enable full and proper consideration of any detailed proposals, including the attenuation pond, site levels, arboricultural method statement, new walls etc. There was insufficient evidence to say that walls along the west boundary were non designated heritage assets. It is not therefore necessary to have a separate condition relating to them.
194. Condition 5 relates to the provision of accessible and adaptable dwellings. It is reasonable and necessary to ensure compliance with MDLP Policy DM1 i)

- that on sites of 10 houses or more the provision of 20% of dwellings built to Level 2 of Building Regulations Part M 'access to and use of dwellings'.
195. Given that there is some archaeological interest in the site Condition 6 is necessary and reasonable to ensure that any archaeological potential discovered during construction is recorded in accordance with advice at paragraph 189 of the Framework and MDLP Policies DM25 and SP2e).
196. Conditions 7 to 11 are necessary and reasonable to ensure that safe and suitable highway works for vehicles, pedestrians, and cycles, are fully assessed and delivered. It is reasonable and necessary to require that they are worded as pre commencement of development conditions to ensure that the schemes are achievable and delivered in accordance with MDLP Policy SP2 g) and paragraph 108 of the Framework. Detailed specification of routes within the site, including a bend in the vicinity of the access would be for the reserved matters stage and it would not be reasonable to impose requirements in that regard.
197. In respect of off-site works, it is appropriate that the wording 'generally in accordance with' is included because I have only considered these works in so far as was necessary to establish that the works were deliverable in principle. I have amended the condition for the NE access to clarify this. I have amalgamated two suggested conditions for the SE access, clearly specifying the on-site and off-site requirements.
198. I have given reasons elsewhere why a condition which would grant outline planning permission for the 60 houses without the NE access would not be necessary or reasonable. Similarly, I found that additional alternative conditions/wordings in relation to the NE access in response to my post site visit clarification requests would not be reasonable or necessary. Requirements for safety barriers will be determined at a later stage.
199. Condition 12 is a standard condition necessary to ensure that construction occurs in an appropriate manner with adequate facilities in the interests of highway safety and to protect the amenities of existing residents, in accordance with MDLP Policy DM1. For a scheme of 60 dwellings, it is not reasonable to require a phasing programme.
200. Conditions 13 and 14 are necessary to ensure that the Highway Authority is furnished with adequate information to ensure the delivery of suitable highway related infrastructure on site during construction and upon completion in the interest of the safety of all users of the public highway.
201. Conditions 15 to 19 are reasonable and necessary to satisfy requirements of Policy DM26 b) for flood and water resource management and to ensure drainage of the site, including infiltration devices, is appropriately dealt with during construction and after so as to not increase flood risk, pose water quality issues to the surrounding area, and to ensure that surface water runoff from the development is discharged as high up the drainage hierarchy as is feasible, managed in accordance with the principles of sustainable drainage systems, and ensure that the development's permanent surface water drainage management systems will remain fully operational throughout the lifetime of the development.

202. Conditions 20 to 22 are reasonable and necessary to ensure that protected species are fully considered, and potential impacts mitigated. Conditions 23 - 25 are reasonably necessary to protect public health and the environment from pollution.
203. Whilst the Appellant was content to accept a condition withdrawing permitted development rights for dormer windows and alterations to roofs including roof lights, on reflection I am not satisfied that at this outline stage I have sufficient evidence to demonstrate that such a condition would be necessary. The application is in outline. Layout and landscaping are reserved matters. The housing layout was not before me to determine. That said, the Appellant's case was supported in part by illustrative layout drawing 1238.04B which indicated that the housing could be achieved within the area indicated on the Adopted Policies Map and the Inquiry proceeded on this understanding. The Appellant agreed that the Policies Map and explanatory text are not part of Policy SP2 and the policy itself does not specify the housing area. I acknowledge that the S106 defines the GI land but I conclude that a condition to restrict the housing to the residential area illustrated on the Adopted Policies Map would be consistent with the Appellant's proposals, and for the reasons given would be reasonable and necessary. It would also afford greater clarity.
204. I am satisfied that the conditions in the attached schedule are necessary, relevant to planning and to the development permitted, precise and reasonable in all other respects.
205. Representations were made to the Inquiry that a contribution towards the local hospital should be sought. MDLP Policy S1 (sustainable development priorities) criterion i) includes promoting healthy communities through the delivery of social, educational, recreational and cultural facilities and services, but does not refer to hospitals. Policy S8 advises that the location, scale, and form of development will be guided by the needs for community facilities and infrastructure, but the site is allocated and there is no reference to such a contribution in Policy SP2. I do not know all the circumstances of a request for such a contribution in another application referred to by the parties, but I understand it was made before the MDLP was adopted.
206. There is no evidence that a contribution was sought in respect of the application subject of this appeal, and no representations to that effect have been made to the Inquiry. In the absence of such, I have no way of knowing whether any such contribution would be compliant with the CIL Regulations.

Public benefits

207. The site is allocated for 60 dwellings in the MDLP, and the proposal would be the first stage in enabling the market to deliver the housing. I have found that the site is in a sustainable location. The S106 and conditions would secure delivery of 30% affordable housing of an approbative mix and type of, 5% self-build plots, an element of adaptable and lifetime homes lifetime housing. Although there is no housing shortfall, as an allocated site, the site is relied upon by the Council to meet its adopted strategy for the delivery of housing in the District and contribute to the Government's objectives to help boost significantly the supply of market and affordable homes. I attach substantial weight to these benefits collectively.

208. Improvements to access to the village for pedestrians and cyclists are a requirement of Policy SP2 g). In as much as works to the SW, SE and NE access points are all required for future users of the development they do not attract extra weight. However, the greater connectivity and choice that they offer pedestrians and cyclists represents an improvement. Proposed improvements for pedestrians to the width of a footway along Turnpike, a new build out, pedestrian crossing and new segregated footway in the canal bridge area all go beyond what is necessary for the development and are public benefits to the wider community and attract significant additional weight in favour.
209. The 2.5ha of GI would generate biodiversity benefits, which I afford modest weight. Relatively short-lived employment opportunities generated during construction attract only limited weight. I have no doubt that the proposal would boost spending power in the local economy and there are a number of services and facilities within the village which might benefit from this. I attach moderate weight to this.

Planning balance, public sector equality duty and conclusions

210. In relation to the proposed access and highway works along Turnpike (including the canal bridge area) at the SE corner of the site, and at the NE corner of the site onto Higher Town, I have found that with appropriate conditions and the UU, the Appellant has satisfactorily demonstrated that the appeal scheme would provide safe and suitable improved access to the village for pedestrians and cyclists. There would be no conflict with MDLP Policy SP2 criterion g), Policy DM1 criterion d); Policy S1 criterion e), and advice in the Framework which together and amongst other things require that appropriate opportunities are taken to promote sustainable transport modes and provide safe and suitable access to the site for all users.
211. Having regard to advice in the Framework at paragraph 108, development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. For the reasons set out above, I do not find that to be the case.
212. I found that the proposed vehicular access would comply with requirements of Policy SP2 for the delivery of GI and in terms of respecting the edge of village setting and the character of the area. There would be no conflict with MDLP Policies DM1, DM26, S1, S9 and S14 and no conflict with advice in the Framework for achieving well designed places and conserving and enhancing the natural environment.
213. For occupiers of Nos 42 and 46 Higher Town, any harm to living conditions would be limited. For occupiers of No 44 there would be an initial moderate/major adverse visual impact but the overall impact upon their living conditions would be less. Over time, and with an appropriate design and landscaping scheme, the effect upon their living conditions would not be unacceptably adverse. The proposals would comply with the requirement of Policy DM1 criterion e) that new development does not have an unacceptably adverse effect on the privacy and amenity of the proposed or neighbouring properties and uses. I find no conflict in this regard with the advice at paragraph 127 of the Framework that the design of new development should create a place that would provide a high standard of amenity for existing users.

214. I have concluded that the proposal would result in some limited harm to the rural setting to the west of the LB and Nos 44 and 46. As I had found that the setting to the west makes a limited contribution to the significance of the LB and Nos 44 and 46 I concluded that there would be some limited harm to the significance of these assets. I found that the effects of the proposed access and highway works upon the rural lane setting of the LB and its curtilage listed building would be very limited and would have a very limited effect upon the significance of the LB and the curtilage listed barn. The harms in this regard would be less than substantial, at the lower end of that scale.
215. In respect of the CA, I found that whilst wholly outside of the CA the access works would have a small adverse effect upon the appreciation of the extent of the historical development of the settlement west along Higher Town but the effect upon the character and appearance of the CA as a whole would be very limited. Again, the harm in this regard would be at the lower end of less than substantial.
216. I am mindful that consideration of landscape and visual impacts included consideration of the same heritage assets as landscape receptors. Nonetheless, following a precautionary approach I recorded a minor adverse landscape impact and a minor adverse visual impact on Higher Town in the vicinity of the access. In the NE corner of the appeal site, I found that whilst the landscape character would change it would remain generally open and that even with a route running through it, the residual landscape effect would be no more than minor adverse. Although I found some harms, I concluded that with appropriate landscaping and design the proposals would not conflict with requirements of Policy SP2 b) and I found no conflict with requirements of Policies DM1, DM25, S1, S9 and S14.
217. The harms to heritage assets that I have found would be limited, when considered individually and collectively and in all instances, less than substantial. Both the Framework and criterion d) of Policy DM25 require that where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, the harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.
218. The site is allocated for the scale of development proposed in an adopted Local Plan. The application is in outline with all matters save for access reserved. Although I have found some limited level of harm (harm that is likely to be a consequence of any development plan compliant scheme on the site), I am satisfied that with appropriate landscaping and design the proposals would be respectful of the setting and character of the CA, LB and non-designated heritage assets and I find no conflict with Policy SP2 b).
219. Having regard to statutory requirements in S66 and S72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 I attach considerable weight to these harms. Even so, having regard to advice at paragraph 196 of the Framework and similar requirements of MDLP Policy DM25 to weigh the weigh the less than substantial harms against the public benefits, I find that the considerable weight I attach to the harms does not outweigh the substantial weight I attach to the benefits of delivering the allocated housing and improved access to the village for pedestrians and cyclist. The conclusion is the same whether the assets are considered individually or collectively.

220. It is important to note that the S106 Agreement and the UU would secure 30% affordable housing, 5% serviced plots for self-builders, highway works and infrastructure contributions necessary for this to be the case. The conditions set out in the attached schedule would also be necessary. With these measures in place, the proposal would accord with all aspects of Policy SP2. and there would be no conflict with the development plan when read as a whole, or with. advice in the Framework including, amongst other things, at paragraph 108 to take appropriate opportunities to promote sustainable transport and for the provision of safe and suitable access for all.
221. S149 of the Equality Act 2010 requires that in exercising my public duties I must have due regard to the requirements set out in S149. Amongst other things, these include to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it. This involves having due regard to the need to (a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it; (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
222. The site is on high ground and there would be slopes on cycle and pedestrian routes into the site. These would be for detailed consideration at a later stage and there was no evidence to say that safe and suitable access within the site could not be provided. A crossing point on Turnpike and a footway on the north side would have limitations for some users with protected characteristics, in particular wheelchair users and people on mobility scooters. But I found that both would provide improvements upon existing conditions and in this regard users with impaired visibility would particularly benefit from tactile paving and a clearly demarked route. I found no reason to doubt that a new access from the site to Higher Town could not provide safe and suitable access for all. Off-site highway works would also be subject to detailed scrutiny at a later stage when persons acting on behalf of the relevant competent authorities would be subject to the same public sector duties.
223. I conclude that there would be no adverse impacts of allowing the proposed residential development on those with the relevant protected characteristics but acknowledge that certain improvements would present some limitations and less benefit to wheelchair and mobility scooter users in particular. I attach significant weight to those users who may be so impacted in the canal bridge area. However the harms would not outweigh the benefits, including benefits for partially sighted users.
224. I have not identified any considerations that indicate that the appeal should be determined other than in accordance with the development plan. The appeal should therefore be allowed and planning permission granted. Having regard to all other matters raised, including by interested parties, I conclude on balance that the appeal should be allowed.

Helen Heward

PLANNING INSPECTOR.

APPEARANCES

FOR THE APPELLANT

Giles Cannock QC, Kings Chambers. *He called:*

- Neil Jillings, BSc (Hons), MA MRTPI Town Planner and Director, Place Land Ltd (Planning)
- James McKechnie BA (Hons) PGDip FCIHT CMILT, National Director of Transport, Hydrock (Highways)
- Richard Hammond, CMLI PIEMA, Associate Landscape Architect, AECOM (Landscape and Visual)
- Peter Cox, MCIfA, Archaeologist and Director at AC Archaeology (Heritage)
- Richard Hughes Eng Tech TMICE, Principal Drainage Engineer Hydrock (Flooding & drainage)

FOR THE COUNCIL

Melissa Murphy, and Caroline Daly both of ftb Chambers. They called:

- Alex Sebbinger Director Westward Planning Ltd BA(Hons), MSc(Geog), MSc(TP), MRTPI (*Planning*)
- Rob Hardyman, Associate Transport Planner, Member of CIHT, MSc in Transport Planning and Engineering (*Highways*)

FOR THE RULE 6 PARTY, SAVE OUR SAMPFORD

Jamie Byrom He called:

- Martin Peter Drew, BSc (Hons) Dip TP (Dist) (Planning & other issues)
- Mark Baker, Director MBC BSc C Eng MICE FCIT FILT Eurlng (*Highways*)
- Ms Emma Rouse, Principal Wyvern Heritage and Landscape Consultancy, MCIfa (Landscape and heritage evidence)

INTERESTED PERSONS

- **Mrs R Thomas**, resident of Turnpike
- **Mr P Dumble**
- **Mrs Keary**,
- **Mr Dinnage** resident of Sampford Peverell
- **Heather Culpin** for Sampford Peverell Parish Council

Documents received at the Inquiry

Appellants Opening Statement

Council Opening Statement

Rule 6 Party Opening Statement

Devon County Council Position Statement 2017/18 (also submitted earlier)

Documents for Evidence in Chief with Mark Baker

Plot 254 Heritage evidence document

MDDC – Highways Plans

MDDC- Highway Evidence in Chief Plans

Appellant List of Plans version with Plan 8b

1841 Census Heritage evidence document

Appellant cross examination for MDDC Highways

Appellant cross examination for R6 Highways

Rule 6 Party Highways Compilation

Rule 6 Party Highways Cross Examination

Documents for Mr Drew Evidence in Chief

Ms Rouse Evidence in Chief Document List

Update to Proof of Peter Drew for Rule 6 Party

Update of Proofs to Emma Rouse for Rule6 Party

Westward Planning for MDDC updates to proof of evidence and rebuttal

Appellant Heritage EiC

Regulation 122 CIL Compliance

Heritage (Ms Rouse) Cross examination list

Rule 6 Party documents for cross examination for Mr Cox Heritage

Mr Dumble Statement

Mrs Thomas Statement and attachments

Mrs Keary Statement

Paul Diamond Qualification & Experience

Docs for Rule 6 Party cross examination for Mr Hammond Landscape

Docs for Rule 6 Party EiC Mr Drew Main Evidence notes

Inspector round table questions and notes

Revised Inquiry timetable 8.12.20 (update to 2 December 2020 version)

Documents for R6 Cross Examination Mr Jillings
Confirmation email from DCC re SoCG highway works
Topographical PDF submitted by email 14 December 2020
SoCG appellant and MDDC signed
Dwg 06685-HYD-XX-XX-DR-TP-P-07-S2-002
Rule 6 Party email re unilateral undertaking & NHS payment
Topographical Plan extracts NE corner
Topographical Plan extract NE corner with mark up
Confirmation email from DCC re SoCG highway works
Letter – 4 Turnpike Sampford Peverell
Certificate of Service – 4 Turnpike, Sampford Peverell
Rule 6 Party Suggested condition
revised condition relating to drainage submitted on the 13 December 2020
IS106 agreement with December 2020 amends
S106 plan 1
S106 Plan 2
Site Visit Itinerary Dec 2020
Letter – 2 Turnpike Sampford Peverell
Certificate of Service - 2 Turnpike Sampford Peverell
Letter – Wharf House, Turnpike Sampford Peverell
Certificate of Service – Wharf House, Turnpike Sampford Peverell
Peter Drew email 10 December 2020 re contributions
Email and letter from Peter Drew 10 December 2020 re NE access severance condition
Letter re Planning from Henrietta Hirst (severance)
Letter re Planning from Fred and Jo Weekes
Letter re Planning from E and H Keary
Statement from the Parish Council to the Inquiry read by Mrs Culprin
Update to Proof and Rebuttal of Mr Sebbinger
Traffic Regulation Order – Unilateral Undertaking
R6, LPA and Appellant closing submissions

Confirmation email from Devon County Council (Local Highway Authority) regarding highway improvement scheme near to the canal bridge and in respect of the site south east access, as agreed between Mid Devon District Council and the Appellant

Mrs Thomas email 10 December 2020 regarding round table discussion on the canal bridge area revised scheme

Because the Inquiry was held virtually there were an additional number of emails and documents, but the above list sets out the key documents.

Documents received after the Inquiry had met and before it was closed in writing

Email from Miss N Ireson and Mr J Prangnell, 21 December 2020

Email from Brenda Hazelton, 21 December 2020

Email from Debbie Shearman 20 December 2020

Hydrock Technical Note C-06685-C Response to letters from nearby residents 7 January 2021

Hydrock Technical Note C-06685-C Re NE Access 15 Jan 2021

Statement by the Rule 6 Party on visibility at the NE access, 15 January 2021

SCHEDULE OF PLANNING CONDITIONS

- 1 Details of the appearance, landscaping, layout and scale (hereinafter called 'the Reserved Matters') shall be submitted to and approved in writing by the local planning authority before any development begins in respect of that phase. Development shall be carried out in accordance with the approved details.
- 2 Application for approval of the Reserved Matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
- 3 The development hereby permitted shall begin no later than two years from the date of approval of the last of the Reserved Matters to be approved.
- 4 The landscape details required to be submitted by condition 1 shall include the following additional information: details for the attenuation pond, boundary treatments, details for new Devon Banks, new walling (including siting and construction details) and hedgerows, existing and proposed site levels, finished floor levels, tree protection plan and arboricultural method statement. Development shall be carried out in accordance with the approved details.
- 5 20% of all the dwellings approved shall be constructed to meet the requirements of Part M4 (2) Category 2: Accessible and Adaptable Dwellings of the Building Regulations 2010 (as amended 2016).
- 6 No development shall begin until the implementation of a programme of archaeological work for the entire site has been secured in accordance with a written scheme of investigation and timetable for implementation, which shall have been previously submitted to and approved by the Local Planning Authority. The development shall be carried out at all times, in accordance with the approved scheme and timetable, and the results of the fieldwork and post excavation specialist analysis shall be submitted to the Local Planning Authority, in accordance with the approved timetable.
- 7 No development shall take place on site until off-site highways works generally in accordance with drawing 06685-HYD-XX-XX-DR-TP-P-07 Rev P 07 for the canal bridge area and as set out in the Statement of Common Ground between the Appellant and the Council, dated 8 December 2020 and for the improvement in width to 2m of approximately 380m of the south side of Turnpike between the proposed SE access and the canal bridge, have been constructed in accordance with details that shall have been previously submitted to and approved in writing by the Local Planning Authority and made available for use by the public.
- 8 No development shall take place on site until the highway works to provide the vehicular access to the site from the road to the west of the site, have been constructed in accordance with details that shall have been previously submitted to and approved in writing by the Local Planning Authority and made available for use by the public. Such works including visibility splays shall be in general conformity with drawing 06685-HYD-XX-XX-DR-TP-106 Rev P5, and as set out in the Hydrock Transport Assessment 2018. Those works shall be retained thereafter. Within the visibility splays as formed

- there shall be no obstruction above 0.6m in height, and the visibility splay shall be maintained thereafter.
- 9 No development shall take place on site until highway works to provide the on-site north-east pedestrian/cycle access onto Higher Town in accordance with, and off-site works generally in accordance with, drawing 06685-HYD-XX-XX-DR-TP-P-04 Rev P3 (inclusive of, but not limited to, a footway/cycle way onto Higher Town, a build out, visibility splays, traffic calming and gateway) have been constructed in accordance with details that shall have been previously submitted to and approved in writing by the Local Planning Authority and made available for use by the public. Those works shall be retained thereafter. Within the visibility splays as formed there shall be no obstruction above 0.6m in height, and the visibility splay shall be maintained thereafter.
 - 10 No development shall take place on site until the highway works to provide the on-site south-east pedestrian/cycle access onto Turnpike in accordance with drawing 06685-HYD-XX-DR-TP-108-P4 and off-site works in accordance with drawing 06685-HYD-XX-XX-TP-0125-Rev P1 (inclusive of, but not limited to, a footway/cycle way onto Turnpike build out and visibility splays) have been constructed in accordance with details that shall have been previously submitted to and approved in writing by the Local Planning Authority and made available for use by the public. Those works shall be retained thereafter. Within the visibility splays as formed there shall be no obstruction above 0.6m in height, and the visibility splay shall be maintained thereafter.
 - 11 No development shall take place on site until the highway works as shown on drawing 06685-HYDXX-XX-DR-TP-0110-P2 for the provision of an access and footway at the Battens Cross junction off Turnpike and link road (inclusive of, but not limited to, footway, tactile crossings, drainage, alignment, visibility splays) have been constructed in accordance with details that shall have been previously submitted to and approved in writing by the Local Planning Authority and made available for use by the public. Those works shall be retained thereafter. Within the visibility splays as formed there shall be no obstruction above 0.6m in height, and the visibility splays shall be maintained thereafter.
 - 12 No development shall begin until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Works shall be carried out in accordance with the approved details. Such Construction Management Plan shall include:
 - a) the timetable of the works;
 - b) daily hours of construction;
 - c) any road closure;
 - d) measures to ensure that -delivery and construction traffic travelling to and from the site shall not take place other than between 8.00am and 6.00pm on Mondays to Fridays inclusive, 9.00am to 1.00pm on Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays;
 - e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
 - f) the proposed route of all construction traffic exceeding 7.5 tonnes;

- g) site management arrangements including provision for on-site storage of materials, plant and machinery; location of temporary offices, contractors' compounds and other facilities; on-site parking and turning provision for site operatives, visitors and construction vehicles; and the loading/unloading of plant and materials to take place within the site;
 - i) the means of enclosure of the site during construction works;
 - j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking on-site;
 - k) details of wheel washing facilities;
 - l) details of the amount and location of construction worker parking and measures to prevent overspill parking on the public highway.
- 13 The estate road, cycleways, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, road maintenance/vehicle overhang margins, embankments, accesses, car parking and street furniture shall be constructed and laid out in accordance with details to be approved by the Local Planning Authority in writing before their construction begins. The development shall take place in accordance with the approved details and be retained thereafter. For this purpose, plans and sections indicating, as appropriate, the design, layout, levels, gradients, materials, and method of construction shall be submitted to and approved in writing by the Local Planning Authority.
- 14 No part of the development, other than that relating to the access works hereby permitted 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 metres back from its junction with the public highway in accordance with approved Plan 06685-HYD-xx-xx-DR-TP-106 REV P5.
 - B) The ironwork has been set to base course level and the visibility splays required by this permission laid out in accordance with approved plan 06685-HYD-xx-xx-DR-TP106 REV P5.
- 15 No development shall commence until a temporary surface water drainage management system to serve the development site for the full period of its construction has been implemented and is operational. Details of such temporary surface water drainage management system shall be submitted to and approved in writing by the Local Planning Authority before its implementation and shall address both the rates and volumes, and quality, of the surface water runoff from the construction site. The temporary surface water management system shall be implemented in accordance with the approved details and so retained and maintained during the construction period.
- 16 No development shall take place until a programme of percolation tests for the whole site, with details of the locations and depths of the proposed infiltration devices have been carried out in accordance with BRE Digest 365 Soakaway Design (2016), and in accordance with details that shall have been previously submitted to and approved in writing by the Local Planning Authority.
- 17 No part of the development hereby permitted within the site shall be commenced until the full results of a groundwater monitoring programme

for the whole site undertaken over a period of 12 months, including locations and depth of proposed infiltration devices, has been submitted to, and approved in writing by, the Local Planning Authority.

- 18 No part of the development hereby permitted shall be commenced until the detailed design of the proposed permanent surface water drainage management system has been submitted to, and approved in writing by, the Local Planning Authority. The design of this permanent surface water drainage management system will be informed by the programme of approved BRE Digest 365 Soakaway Design (2016) percolation tests and in accordance with the principles set out in the Flood Risk Assessment and Drainage Strategy (Ref. C-06685-C; Rev. P4; dated 1st February 2018), Drainage Strategy Layout Sheet 1 of 2 (Drawing No. C-06685-C- 002; Rev. C; dated 9th May 2018), Drainage Strategy Layout Sheet 2 of 2 (Drawing No. C- 06685C-003; Rev. C; dated 9th May 2018), Drainage Strategy Layout Option B: No Infiltration Sheet 1 of 2 (Drawing No. C-06685-C-005; Rev. B; dated 9th May 2018), Drainage Strategy Layout Option B: No Infiltration Sheet 2 of 2 (Drawing No. C-06685-C- 006; Rev. B; dated 9th May 2018), MicroDrainage outputs of greenfield runoff rates for the site (File Attenuation – 30 YEAR_WHOLE; dated 23rd March 2018), MicroDrainage outputs for proposed Highway Soakaways (Ref. Highways Soakaway 1 - Rev A; File Highway soakaway; dated 23rd March 2018, as well as Ref. Highway Soakaway 2; File Highway soakaway; dated 23rd March 2018) and MicroDrainage outputs for attenuation option (Ref. Whole Site: 30 Year Only; File Attenuation - 30 YEAR_WHOLE; dated 23rd March 2018, as well as Ref. Whole Site: 100 Year + 40%; File Attenuation 30 YEAR_WHOLE; dated 23rd March 2018). Once approved, the development shall be constructed in accordance with the approved permanent surface water drainage management system and the system shall be fully operational before any of the proposed dwellings are first occupied and be so retained.
- 19 None of the dwellings hereby permitted shall be occupied until-full details of the adoption and maintenance arrangements for the permanent surface water drainage management system approved pursuant to condition 18 above have been submitted to and approved in writing by the Local Planning Authority. The permanent surface water drainage management system shall be retained and maintained in accordance with the approved adoption and maintenance arrangements for the lifetime of the development.
- a) No dwelling shall be first occupied until the following works have been carried out in accordance with details that have previously been submitted to and approved in writing by the local planning authority:
 - b) The spine road and cul-de-sac carriageway, including the vehicle turning head within that phase shall have been laid out, kerbed, drained and constructed up to and including base course level, the ironwork set to base course level and the sewers, manholes and service crossings completed;
 - c) The spine road and cul-de-sac footways and footpaths which provide access to that dwelling have been constructed up to and including base course level;
 - d) The cul-de-sac visibility splays have been laid out to their final level;

- e) The street lighting for the spine road and cul-de-sac and footpaths have been erected and is operational;
 - f) The car parking and any other vehicular access facility required for the dwelling by this permission has been completed;
 - g) The verge, service margin and vehicle crossing on the road frontage of the dwelling have been completed within the highway boundary;
 - h) Within twelve months of the first occupation of the first dwelling all roads, footways, footpaths, drainage, statutory undertakers' mains and apparatus, junction, access, retaining walls and visibility splay works shall be completed in accordance with the approved details and thereafter retained.
- 20 No street and/or external lighting of public areas shall be installed on site except in accordance with a sensitive lighting plan that shall have previously been submitted to and approved in writing by the Local Planning Authority.
- 21 Prior to the commencement of development, including groundworks, the site shall be re-surveyed by an appropriate person for evidence of badgers. An updated report shall be submitted to and approved in writing by the Local Planning Authority either confirming that no badgers were found, or/and containing appropriate mitigation measures (if required) including a timetable for implementation. Where the approved report identifies mitigation measures these should be implemented in full in accordance with the requirements of the report and associated timetable and be retained thereafter.
- 22 The recommendations in the reptile mitigation strategy report undertaken by Ecological Surveys Ltd dated May 2018 are to be fully implemented and maintained during the course of development associated with the relevant area of the site as set out within the report.
- 23 Before the development hereby approved is commenced, a site investigation and risk assessment shall be carried out to determine the nature and extent of any land contamination that may be present and the likely impact on all receptors that may result. A full report of the investigation and risk assessment shall be submitted to the Local Planning Authority. No development shall take place until either the Local Planning Authority has given written approval for the development to commence or the requirements of condition 25 below are met.
- 24 Where actual or probable significant pollutant linkages are found following the investigation and risk assessment required by condition 24 above, no development shall take place without the prior written approval of the Local Planning Authority of a remediation statement and timetable for completion of the required works.
- 25 Following completion of any works required by condition 25 above a remediation validation report shall be submitted to the Local Planning Authority. Occupation on the site, or parts of the site affected by land contamination, shall not take place without the prior written approval of the of the Local Planning Authority of the validation report.
- 26 Notwithstanding the approved site location plan drawing 1238.01.A, the area for the 60 dwellings shall be restricted to within the residential area

identified on the Sampford Peverell Adopted Policies Map in the Mid Devon Local Plan 2013-2033.

-----END OF SCHEDULE-----

Richborough Estates