

**REPORT TO: PLANNING COMMITTEE**  
**Date of Meeting: 8 December 2014**  
**Report of: Assistant Director City Development**  
**Title: Appeals Report**

**Is this a Key Decision?**

**No**

**Is this an Executive or Council Function?**

**No**

**1. What is the report about?**

1.1 The report provides Members with information on the latest appeal decisions received and a record of new appeals submitted to the Planning Inspectorate.

**2. Recommendations:**

2.1 Members are asked to note the report.

**3. Summary of Decisions:**

**3.1 Home Farm, Church Hill, Pinhoe – Allowed with partial award of costs**

- (i) At Planning Committee on 1 December 2014 it was reported that the Home Farm appeal had been allowed. A summary of the decision is presented below.
- (ii) An outline planning application, including means of access for about 120 homes at Home Farm, was refused after consideration by the Planning Committee on 13 January 2014. A public inquiry into an appeal against this decision was held on 9-11 September 2014 and the Inspector allowed the appeal on 29 October.
- (iii) The Council's reasons for refusal of the application related to harm to the landscape setting of the city, lack of adequate information to demonstrate acceptable access and highway impact, undesirable precedent and the lack of a planning obligation making provision for affordable housing.
- (iv) The Inspector identified the main issues for the appeal to be effect on the landscaped setting of Exeter, on highway safety and traffic, whether the proposal was a sustainable development including with regard to the housing land supply position and any precedent (para 8).
- (v) Landscape setting  
The Council relied on two policies to identify and protect the landscape setting, LS1 of Exeter Local Plan First Review (2005) and CP16 of the core strategy.
- (vi) The Inspector noted that LS1 was not a criteria based policy as advised by the National Planning Policy Framework and considered the underlying evidence base not up-to-date so she accorded it little weight (para 13).
- (vii) She noted that the Core Strategy key diagram identifies broad areas rather than precise boundaries where CP16 applies (para 14).
- (viii) Three main landscape assessments provided the evidence. The Council relied on a 2007 city wide Fringes Study and a 2013 study that evaluated a number of specific

sites (the CEC Study) of the landscape value of areas. She considered that the large areas involved in the Fringes Study and reliance just on landform provided only a general guide and noted that in the CEC Study part of the site was identified as low to very low visual sensitivity (para17). The developer relied on a Landscape and Visual Assessment that identified development of the lower and middle slopes was acceptable. The Inspector concluded (para 29) that although it may be possible to identify residential development on the site in medium distance views such development is not intrinsically harmful to the setting of the City, she therefore concluded it would comply with CP16.

- (ix) Prior to the appeal, the applicant provided a S106 unilateral undertaking that addressed the highway authority's concerns on traffic queueing on the B3181 for the double mini roundabouts so there was no highway authority objection to the scheme (para 31). Local residents did raise concerns about the narrow Church Hill. The Inspector concluded that the proposed formalised priority system and traffic calming would not exacerbate problems of vehicles using private drives to pass each other and would be beneficial to pedestrians (para 34/5).
- (x) Housing land supply  
The NPPF requires local planning authorities to identify and annually update a five year supply of housing against their requirements. Relevant policies for the supply of housing should not be considered up-to-date if a five year supply cannot be demonstrated. The applicant relied on the Council's 2013 Strategic Housing Land Availability Assessment for an evidence base, the Council relied on a draft 2014 SHLAA to provide more up to date data. The Inspector's report quotes both sources.
- (xi) The main issue on housing supply was the treatment of student accommodation. The draft 2014 SHLAA had updated housing completions and commitments to reflect National Planning Practice Guidance (NPPG) advice that student accommodation could be included towards the requirement based upon the amount of accommodation it releases in the housing market. The Council argued that this should include indirect releases where additional student numbers housed in new purpose built accommodation avoided further growth in shared student houses. The Council also relied on a statement on the Core Strategy inspector's report that student accommodation could be counted.
- (xii) The Inspector concluded where the student population is stable and the number of general market dwellings occupied by students declines inclusion would be consistent with the NPPG (para 47). However, over the plan period from 2006, due to the growth of the University, there had not been a reduction in the general market dwellings occupied by students and therefore the approach was inconsistent with the NPPG. The Inspector acknowledged that this may change in future (para 47), however, the evidence suggests this is unlikely.
- (xiii) The Inspector dismissed the previous Core Strategy Inspector's statement saying that it was apparent that she understood that the University intended to meet most of its own student housing needs on its own land. She concluded that student accommodation should not be included as part of the housing land supply (para 50).
- (xiv) The housing requirement of at least 12,000 homes 2006-26 is derived from CP1 of the core strategy. The 2014 SHLAA identified 4,969 completions since 2006 that should be subtracted from that figure leaving a residual requirement of 7,031. The Inspector identified that if student accommodation completions are discounted from the 2013 SHLAA the reduced total of 3,455 completions leaves a higher residual requirement of 8,545 dwellings (para 51). The five year requirement (5 of 12 remaining years) therefore increased from the Council's calculation of 2,929 to 3,560. Furthermore the

3,455 completions over 8 years 2006-14 represented a shortfall on the 4,800 that should have been delivered (600 pa x 8) of 1,345 that should be delivered in the next five years increasing the requirement to 4,345 (3,000 +1,345) (para 69).

- (xv) The NPPF also requires local planning authorities to allow an additional buffer of 5% in housing land supply to ensure choice and competition in the market for land and 20% where there is persistent under delivery of housing.
- (xvi) The applicant argued that a 20% buffer should apply. The Inspector notes the Council's arguments that this should be assessed against the development plan target in place in the relevant years back to 2006, that the Council failed to meet the target in 4 of 8 years, that there was over supply in some years and that on balance this does not amount to a persistent record of under-delivery. She agreed with the Council that a 5% buffer should apply, this therefore increased the requirement from 4,345 to 4495 (para 72).
- (xvii) There are three elements of the supply to assess against the requirement: sites with planning permission, sites without planning permission deliverable within five years and windfall sites that cannot be identified.
- (xviii) The 2014 SHLAA identified 2,436 homes to be delivered on sites with planning permission excluding student accommodation (para 53). The applicant suggested that a 10% lapse rate be applied to this total, however, this was rejected by the Inspector who considered the Council's assessment of sites reasonably robust (para 55).
- (xix) The 2014 SHLAA identified 8 of 119 sites as deliverable within 5 years with a capacity of 416 homes. the Inspector reduced this by 99 to 317 on the basis that a replacement depot was necessary to facilitate release of Exmouth Junction (para 58) and that the previous 2013 SHLAA panel considered land at Old Rydon Lane was not achievable until years 11-15 (para 61).
- (xx) The 2013 SHLAA identified a windfall allowance of 497 homes based upon past rates, the 2014 SHLAA increased the allowance to 763 homes to reflect the NPPG guidance on treatment of student accommodation. The Inspector considered the 2013 estimate to be more reliable (para 67).
- (xxi) The Inspector therefore identified a total five year supply of  $2,436+317+497=3,250$  (para 68). Set against a requirement of 4,495 she concluded that this represented a 3.6 year supply. This deficit in housing land supply was identified as a strong material consideration in favour of the appeal proposal (para 72).
- (xxii) She noted NPPF advice that policies for housing supply cannot be considered up-to-date without a five year supply and the NPPF presumption in favour of sustainable development concluding the proposal was sustainable (para 76).
- (xxiii) She rejected concerns regarding the precedent of any approval in the context of her conclusions on policy LS1 being out of date and that future proposals on more favourably identified sites in the Housing Land Review would be determined on their merits (para 77-78).
- (xxiv) The Council raised no objections on flooding issues. She concluded that it would not increase pluvial flood risk and would help to alleviate an existing problem (para 87).
- (xxv) Whilst local residents raised some wildlife issues, the Inspector identified no significant harm to wildlife in the vicinity (para 85). She also identified no harm to the setting of listed buildings. Some minor amendments were made to conditions proposed by the Council to be applied should the appeal be allowed.

(xxvi) Award of costs

A partial award of costs was made against the Council but this has yet to be quantified. The Inspector noted that the matters of landscape setting were a judgement and it evidenced its decision. The Council's reliance on a draft 2014 SHLAA produced shortly before exchange of proofs of evidence to update figures was not in itself unreasonable. However, she considered that it went far beyond an update altering past completion figures and hence windfall assumptions. The applicant was unable to address this in his proof requiring extra preparatory work and inquiry time. She considered this unreasonable and awarded costs in so far as they relate to this changed position on housing land supply matters.

### **3.2 16b Monmouth Street, Topsham**

- (i) The appeal against refusal for an extension and refurbishment of this property was dismissed.
- (ii) The main issues were the effect of the proposed development and appearance of the Topsham Conservation Area and, secondly, its effect on living conditions at adjoining dwellings.
- (iii) The extension would have effectively doubled the depth of the original dwelling and would be mostly in two storey form. He considered that ECC's supplementary planning document on house extensions requiring works to be subservient to the original house to be sound and saw nothing to suggest that such a principle has been disregarded in extensions already built nearby. A permission granted for a large extension in 2003 had expired and carried little weight since it no longer forms a fall-back position. Whilst external finishes would be coordinated with new finishes on the present building, lack of subservience arising from the massing and detailing would not complement the surrounding townscape. In consequence, it would not comply with Policy DG1 of the Local Plan or with the NPPF.
- (iv) In concluding, he found the proposal would be harmful to the character and appearance of the Topsham Conservation Area. In respect of impact on the adjoining property (No 15), he considered that adding a condition to the proposal could have reduced the impact, if the scheme had otherwise been considered favourably.

## **4. New Appeals**

- 4.1 No new appeals have been received.

### **Assistant Director City Development**

#### **Local Government (Access to Information) Act 1985 (as amended)**

##### **Background papers used in compiling the report:**

Letters, application files and appeal documents referred to in report are available for inspection from: City Development, Civic Centre, Paris Street, Exeter

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