

## REPORT TO: PLANNING COMMITTEE

Date of Meeting: 23 May 2016

Report of: Assistant Director City Development

Title: Public Inquiry/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 Public Inquiry decision and Appeal received and new appeals since the last report.

#### 2. Recommendation:

2.1 Members are asked to note the report.

#### 3. Summary of Public Inquiry Decision

3.1 The decision regarding the Public Inquiry following an appeal made by Waddeton Park Limited in respect of application 14/2066/01 was announced on 27 April. The application was for a 60 bed residential care home; 47 assisted living apartments and 55 age restricted dwellings on Land north of Exeter Road, Topsham. The appeal was allowed and permission granted subject to conditions.

The Inspector considered that there were two main issues to be considered. Firstly whether there is a 5 year supply of housing land within the City Council area and secondly the effect of the development on the setting and separate identity of Topsham.

#### Five Year Land Supply

Whether or not such a supply exists in Exeter depends on whether the provision of purpose built accommodation (PBSA) is included in the calculation. The Government's own Planning Practice Guidance (PPG) says that all student accommodation can be included *based on the amount of accommodation it releases in the housing market* (my emphasis).

The Council argued that it was not necessary to demonstrate that housing occupied by students is being returned to the market because student in-migration was included in the demographic data on which the Council's Core Strategy housing need figure of 12000 was derived.

The Inspector considered that there were a number of deficiencies in this approach.

Firstly that the PPG, in using the specific phrase italicised above requires there to be evidence of accommodation being released into the housing market and that despite concerns being expressed at the Core Strategy Inquiry that student numbers were becoming a concern, there had been "no on-the-ground evidence to demonstrate that the provision of student accommodation has directly released accommodation in the housing market". He further pointed out that Council tax data suggested the contrary.

He also was sceptical about the Council's evidence which argued that student housing needs were included in historic demographic data stating that "evidence that it constitutes a substantial component is unconvincing" and stating that the ONS data used by the Council was inherently unreliable. Whilst acknowledging improvements to the methodology behind more up to date data he points out that this supports the conclusion that the earlier data is flawed.

He also supported the appellant's assertion that the ONS trend-based projections failed to pick up the acceleration in student in-migration and ultimately concluded that the Council had not demonstrated that the Core Strategy housing requirement included student housing at the level which would have been required to release accommodation into the market. Thus neither PBSA that has been constructed or is planned to be built over the plan period counts towards meeting the housing requirement and therefore "there is a serious shortfall in the 5 year housing land supply".

### **Effect on the setting and identity of Topsham**

The Inspector noted the strongly held local view that the open area between Topsham and the M5 has considerable importance as an open break in development on leaving Exeter and entering Topsham. He acknowledged that development of the gap per se would by definition harm the character of part of it but concluded that the degree of harm would be relatively modest. In coming to this view he was of the opinion that the site is more strongly influenced by the "suburban fringes of the Topsham built up area" than the open land to the west. His conclusion was that "enough openness would remain to provide a more than adequate appreciation of leaving one settlement before entering another".

### **The Inspector's Conclusions**

Whilst noting that the scheme would conflict with policies of the Core Strategy and Local Plan which sought to protect the strategic gap between Topsham and Exeter he considered the impact on the gap "modest". He considered that "the circumstances of a significant housing shortfall, the need to boost the supply of housing, and the contribution that the appeal scheme would make to housing supply, are very important material considerations which significantly outweigh the conflict with the development plan" and concluded that permission should be granted.

### **Costs Application**

The Inspector granted a partial award of costs against the Council in respect of its position on housing land supply and student accommodation. He criticised the Council for providing no evidence of direct release of accommodation in the market resultant from construction of PBSA and found the Council's evidence in respect of student housing need being contained within the Core Strategy to be "contradictory and unreliable". Consequently he concluded that the Council had acted unreasonably and caused the appellant unnecessary expense in bringing evidence on the issue.

The appellants also argued that the council had behaved unreasonably in its application of policies affecting the strategic gap but this argument was dismissed by the Inspector.

There will be a further report to Members on the implications of the Public Inquiry in due course.

#### **4 Summary of decisions received**

- 4.1 In addition to the Public Inquiry decision, two further decisions have been received since the last report:

15/0661/03 Land adj 16 Barnardo Road, Exeter. Permission allowed subject to conditions attached to the decision for the construction of two semi-detached dwellings.

15/0346/18 32 Danes Road, Exeter. Permission allowed for change of use from small HMO (Use Class C4) to large HMO (sui generis).

#### **5. New Appeals**

- 5.1 One new appeal has been received re 18 Sheppard Road. The application relates to a new conservatory at the front of the property. Application Reference 15/1408/03.

#### **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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