

**REPORT TO: PLANNING COMMITTEE**  
**Date of Meeting: 20<sup>th</sup> February 2023**  
**Report of: City Development Strategic Lead**  
**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 latest decisions received and new appeals since the last report.

**2. Recommendation:**

- 2.1 Members are asked to note the report.

**3. Appeal Decisions**

- 3.1 [21/0894/OUT](#) - **Land to the west of Clyst Road**, Topsham - *Outline planning application for the construction of up to 100 dwellings and associated infrastructure (all matters reserved).*

Following a public inquiry held on 21, 22 and 26 September, the appeal was allowed. The application for up to 100 dwellings was refused by the Council, due to the conflict of the proposed development with Policy CP16 and saved Policy LS1 for harming the rural character of the area and landscape setting of the city by developing and urbanising a parcel of land comprising the strategic gap between Topsham and Exeter, thus contributing to a sense of coalescence. The site comprises agricultural fields north of the Clyst Road development on the edge of Topsham, which was allowed at appeal in 2019.

The Inspector acknowledged that the proposed development would constitute notable urban encroachment into an area of countryside largely free from development, diminishing the site's openness and rurality. He also acknowledged the importance of the site and remaining open land in acting as an anti-coalescence buffer between Topsham and Exeter given recent developments have reduced the extent of the strategic gap. However, the Inspector noted that the proposal would be c.110m from the M5 motorway and 135m from the nearest buildings in Exeter, meaning a physical gap would still exist. Furthermore, he agreed with the findings of the developer that the proposal would not have a significant visual degree of effect in viewpoints and he considered that the site overall is relatively well contained visually. The views from Clyst Road would be intermittent/fleeting, and the distance of the site from the road and landscaping along the eastern boundary would reduce its prominence. From Newcourt Road, the proposal would appear as a continuation of the adjoining housing site and there would be no discernible visible connection with built form in Exeter. Views from the railway line would be fleeting and partially screened, while a gap would still exist between the site and Newcourt Station. In conclusion, he considered that the extent of encroachment into the strategic gap would be limited overall and not result in coalescence.

On other matters, the Inspector stated that allowing the appeal would not prejudice the Council over consideration of reserved matters, including landscaping to soften views of the proposal. Access would be via the existing 'phase 1' development (previously allowed at appeal) with footpath improvements along Cyst Road secured as part of that scheme and while he accepted the scheme would likely be largely reliant on the private car,

sustainable travel opportunities, such as travel vouchers and a mobility hub, would be incorporated. There was no substantive evidence that junctions affected by the scheme's traffic would be close to exceeding their capacities. Ecological impacts would be dealt with as part of biodiversity enhancement and construction mitigation, secured by conditions. The Clyst Marshes County Wildlife Site was sufficient distance away to not be affected by drainage from the scheme. There would be no significant impact on health from air pollution from the M5.

In terms of the planning balance, the Inspector considered that the Council had a moderate housing land supply shortfall of approximately 4 years, therefore the 'tilted balance' in the presumption in favour of sustainable development in the NPPF was engaged. Significant weight was given to the delivery of market housing and substantial weight with respect to affordable housing. There would be modest economic benefits from construction and the occupation of the dwellings from local spending. Moderate weight was attributed to biodiversity enhancement, the details of which would be secured at reserved matters. Neutral weight was given to public open space, as this would simply meet the requirements of the Local Plan/SPD. There would be no adverse effects on the integrity of habitats sites. There would be moderate conflict with policies CP16 and LS1, as the development would reduce the openness of the site and harm the rural character and appearance of the area, however the landscape was not considered highly sensitive. The proposal would not result in coalescence nor detract from Topsham's attractive setting. Moderate weight was given to the conflict with CP16 and limited weight to the conflict with LS1 (as it is not consistent with the more flexible approach to protecting the countryside in the NPPF). The site does not lie within a valued landscape (NPPF 174) and the development could be designed to create a strong sense of place (NPPF 130). Overall the Inspector considered the adverse effects from the scheme would be limited and would not 'significantly and demonstrably' outweigh the benefits taking the NPPF policies as a whole. The presumption in favour of sustainable development was a material consideration of sufficient weight to clearly indicate that planning permission should be granted in this case despite the conflict with the development plan.

A s106 agreement secures 35% affordable housing and habitats mitigation. Based on the evidence provided, the Inspector did not consider the contribution requested by the Royal Devon and Exeter NHS Foundation Trust was justified, but a contribution (£584 per dwelling) towards Topsham GP surgery was secured. 10% public open space and play areas were also secured, as well as a contribution for a Traffic Regulation Order to create parking spaces for an electric car club vehicle, charging spaces and cycle/electric bike parking, and other sustainable transport provisions. Various conditions were added.

### **3.2** [21/1028/FUL](#) – **6 Matford Lane** - *Demolition of existing bungalow and garage, and construction of two storey dwelling.*

The proposed scheme relates to a site currently occupied by a modest post-war bungalow, one of a group of 6 on the corner of the junction of Matford Lane and Wonford Road. The site is within the St Leonards Conservation Area although the Council's Conservation Area Appraisal states that the bungalows do not make a positive contribution to the character and appearance of this designated heritage asset. The proposal consists of the demolition of the bungalow and its replacement with a two storey dwelling in a contemporary design.

In refusing consent, the Council's main concerns were that by virtue of its overall size, massing, shape, position and design, and the choice of materials to be used, the proposed dwelling would present an overdevelopment of the site and an unsympathetic and unduly prominent form of development that would be detrimental to the character and appearance of the street scene, the local townscape and St Leonards Conservation Area.

The Inspector broadly agreed with the Council stating that “by reason of the first-floor flat roof design and its associated mass, the use of contrasting materials and a larger front projection, the design would be overly prominent and visually intrusive in the street scene” (Paragraph 5). The Inspector acknowledged that the group of bungalows were identified by the Council as not making a positive contribution to the St Leonards Conservation Area but concluded that this scheme would result in greater harm. “The harm to the conservation area is ... a matter of considerable importance in this case” (Paragraph 9).

It was also noted that other contemporary buildings in the area were on larger plots and so not comparable to this scheme. The appellant had sought to argue that these had set a precedent.

For the reasons given above, the Inspector dismissed the appeal.

#### **4. New Appeals**

##### **4.1 [22/0928/FUL](#) – 32 Hawthorn Road – *Two storey side extension.***

Ian Collinson  
**Director of 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

Contact for enquiries: Democratic Services (Committees) - Tel: 01392 265275