

Appeal Decision

Inquiry held on 6, 7 & 9 December 2016

Site visit made on 8 December 2016

by R J Jackson BA MPhil DMS MRTPI MCMi

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

Decision date: 06 January 2017

Appeal Ref: APP/X1118/W/16/3154193

Land west of Mead Park, Bickington, Barnstaple

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Cavanna Homes (South West) Limited against North Devon District Council.
 - The application Ref 60985, is dated 6 April 2016.
 - The development proposed is construction of up to 61 No dwellings, including affordable housing, areas of open space and landscaping, a new vehicular access and associated site infrastructure.
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Decision

1. The appeal is allowed and planning permission is granted for construction of up to 61 No dwellings, including affordable housing, areas of open space and landscaping, a new vehicular access and associated site infrastructure at land west of Mead Park, Bickington, Barnstaple in accordance with the terms of the application, Ref 60985, dated 6 April 2016, subject to the terms of the Planning Obligation dated 2 December 2016 and the terms of the Supplemental Planning Obligation dated 20 December 2016, and the conditions in the Schedule to this decision.

Procedural matters

2. The application was made in outline with access for consideration; I have considered the appeal on this basis. A series of plans showing the parameters against which the development would be completed were also submitted and I have taken these into account as they formed part of the application. An illustrative layout was also submitted and I have considered that plan on this basis.
 3. Following the lodging of the appeal the Council resolved that, had it been in a position to do so, it would have refused the application. Although in a single putative reason for refusal this noted that the site was on high quality agricultural land and considered that the proposed development would perceptively erode and alter the rural character of the strategically important gap between settlements and would, with other permitted development, cumulatively impact highway infrastructure. It concluded that the benefits of the proposal did not outweigh the harms caused and as such the proposal was contrary to various policies in both adopted and emerging development plans.
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4. Following the exchange of proofs of evidence the appellant provided a rebuttal proof on highway matters, which led to the Council withdrawing that element of the reason for refusal relating to highways. The Council did not call its proposed highway witness. However, local residents who attended the Inquiry expressed their objections on this issue.
5. The putative reason for refusal referred to a number of different policies in both the North Devon Local Plan 1995 – 2011 (the NDLP) and in the emerging North Devon and Torridge Local Plan 2011 – 2031 (the NDTLP). However, the evidence presented to the Inquiry on behalf of the Council only raised objections in relation to Policy ENV1 of the NDLP and Policy BAR22 of the NDTLP and in light of this I will concentrate on considering the proposal against these two policies although all relevant policies are material to my decision.
6. The Inquiry opened on the same day as the Hearings into the NDTLP concluded. The Examining Inspector (ExI) gave a verbal statement at the Hearing, and a transcript was provided to the Inquiry. Following the ExI's statement the Council accepted that it could not demonstrate unequivocally a five year supply of housing land. The ExI's formal note was made available to the Inquiry before it closed.
7. The appeal was accompanied by a Planning Obligation under Section 106 of the Town and Country Planning Act 1990 (as amended) by way of a Unilateral Undertaking dated 2 December 2016. This was discussed at the Inquiry. In light of these discussions the appellant indicated that it wished to submit revised planning obligations and this was done through a Supplemental Planning Obligation, dated 20 December 2016. The Council made final comments based on those revisions to which the appellant responded. I will discuss this below. Where I refer to 'the Obligation' this should be taken as being the two Obligations together.

Main Issues

8. In light of the above, the main issues are:
 - the effect on the character and appearance of the area;
 - the effect on highway safety;
 - whether the proposal would result in an unacceptable loss of the best and most versatile agricultural land;
 - whether the proposal makes adequate provision for affordable housing and infrastructure; and
 - whether there are any other material considerations, including the housing land supply situation and the benefits of the proposal, which would indicate that the proposal should be determined otherwise than in accordance with the terms of the development plan.

Reasons

Character and appearance

9. The appeal site forms the eastern part of an agricultural field to the west of the village of Bickington, which forms the western part of the built-up area of Barnstaple. The appeal site rises from south to north across the width of the

- site and the land form also rises to the east, although dropping slightly at the eastern end. To the east is an area of built up development, Mead Park, with the properties adjacent to the appeal site consisting of two storey dwellings.
10. To the south of the appeal site is the B3233, Bickington Road, which runs through the village of Bickington to the next village of Fremington to the west. On the northern highway verge of Bickington Road is a bank and on that are three groups of trees. The eastern group is the most significant being made up of a mixture of pines, leylandii and sycamores some 20 m high. The trees have a 'gap' between the bank and the lowest canopy which allows views under the canopy onto the appeal site. On the opposite side of Bickington Road is a row of bungalows, and the property known as Brookfield House, with Combrew Lane running between Brookfield House and the bungalows. Brookfield House is a large two storey property with its boundary surrounded by an approximately 2 m high wall.
 11. To the north of the appeal site is a bridleway contained between two Devon bank hedgerows. This marks a ridge within the landform to the north sloping down to the Taw estuary. Immediately to the north of the appeal site and the hedgerow and bridleways is an area currently being developed for housing. This area was originally granted planning permission on appeal¹ as Mead Park, Bickington. To avoid confusion with the current appeal site this was referred to as the 'Wainhomes' site and I will use this nomenclature.
 12. The western boundary of the appeal site is not currently defined on the ground. There are thus views from the Bickington Road further to the west across the appeal site through the gaps between the groups of trees to the existing development in Mead Park and Mead Park Close. The development at the lower end of Mead Park is side-on to the road, but the two properties at the higher end face the appeal site. There are also views across the appeal site through a gated entrance into the appeal site in the northeast corner to the south and west and from the south from Bickington Road and the properties on the opposite side to the ridgeline.
 13. The proposal is to define the western boundary with a double hedgerow with a new right of way between. However, the proposal would involve a gap through this to facilitate an access through to the remaining agricultural field to the west. This is shown on a "Parameters Plan – Access"² and illustrative layout as being approximately two-thirds along the length of the proposed western boundary to the north. Given that access is for consideration at this outline stage and the "Parameters Plan – Access" is incorporated within the application drawings this location would be fixed.
 14. The Wainhomes development can be seen from Bickington Road above and, to a limited extent during the winter months when the Inquiry took place, through the double hedgerow. However, being set some distance away from Bickington Road it does not intrude significantly into views from Bickington Road.
 15. The residential development of the appeal site would change its character. This would be particularly marked in short distance views from Mead Park and from the properties on the south side of Bickington Road where development would be seen in the gap under the canopies of the trees. The application was

¹ APP/X1118/A/14/2224465

² Drawing 15113 L01.02 revision B

accompanied by a Landscape and Visual Impact Assessment (LVIA) and this described these effects as “major” from Mead Park and “moderate” from the properties on Bickington Road in both Year 1 and Year 15 following construction. I would agree with these conclusions on these short distance views.

16. There was some discussion at the Inquiry as to the location of the western boundary, with the landscape witness for the Council describing it as “random” as it did not follow any existing features. In one sense this is the case, but there would be some logic to the proposed location.
17. The northwest corner of the proposed development is located to the south of the southwest corner of the Wainhomes development and both would extend a similar distance along the right of way. There would thus be no further encroachment into the countryside west of this point.
18. The southwest corner would be on the opposite side of Bickington Road opposite the entrance of Brookfield House to the west of that property. Under the terms of the NDLP Combrew Lane marks the edge of the development boundary of Bickington with the bungalows to the east within the development boundary and Brookfield House and its curtilage outside and in the countryside. The development boundaries “encompass the main built up area together with any peripheral sites that are either proposed or committed for new development”³ with the purpose being “to control and regulate the growth of a settlement”⁴. This means that some properties outside the development boundary could, in visual and functional terms, still form part of the settlement. My conclusion in travelling along Bickington Road from the west was that Brookfield House itself formed part of the settlement of Bickington as the first property on the south side of Bickington Road notwithstanding that it fell outside the development boundary in terms of the NDLP. The nearby road furniture with signs indicating ‘Bickington’ are read as such and do not have a significant effect on the wider landscape or character of the area.
19. Although the southwest corner of the proposed development would be a short distance to the west of Brookfield House it would be opposite the western edge of the curtilage of this property and thus this would mark a logical end point for the western extent of the proposed development.
20. The appeal site lies in Local Character Type (LCT) 3A ‘Upper farmed and wooded valley slopes’ as set out in Devon County Council’s assessment of LCTs. Here the special qualities include an open landscape with important vantage points and uninterrupted vistas and narrow sunken lanes and species-rich hedgerows. The creation of the new hedgerows with the new right of way between would be in keeping with this characteristic.
21. From the west the new double hedgerow would restrict views of the proposed properties and the new development would interrupt the existing views of the properties in Mead Park across the appeal site through the gaps between the groups of trees. However, the hedgerows would take some time to establish, and there would be a gap through them for the new access to the remaining agricultural field. As noted above the point of the gap is fixed and thus it could not be seen clearly from Bickington Road due to the angle of view. I therefore

³ Paragraph 3.35 of the NDLP

⁴ paragraph 3.34 of the NDLP

- conclude that the provision of additional landscaping in the form of a woodland belt, as suggested by the Council officers in their recommendation to the Council, to mitigate the effects of the development on views from the west while beneficial is not necessary.
22. There is an existing gated field entrance in the northeast corner of the appeal site which is at a slightly lower level than the highest point of the appeal site as there is a slight crown to the land form. The public rights of way network passes this and there would be the loss of a view across the appeal field and beyond. However, this view is only glimpsed and consequently, while marked in the locality, would not be significant when looked at in overall terms.
23. From the south the development would be harmful to views from the dwellings and from Bickington Road. However, the introduction of both understorey and succession planting along the southern part of the site would mitigate the effects of the development both in the medium and in the longer term when the existing trees come to the end of their natural lifespans.
24. Policy ENV1 of the NDLP indicates that development in the countryside will only be permitted if three criteria are met. Firstly, a rural location is required, secondly, it provides economic and social benefits to the local community, and, thirdly, it protects the countryside's beauty, diversity of its landscape and historic character, the wealth of its natural resources and its ecological, recreational and archaeological value. I will discuss the first two criteria later in this decision as part of the planning balance.
25. Among the main parties there was agreement that the only issue for consideration against Policy ENV1 was that relating to the countryside's beauty. However, local residents were also concerned about a loss of recreational value, in the sense that as an open field this added to the rural experience for those using Bickington Road and the rights of way network in the area. It seems to me that the term 'recreational value' refers to the actual use of a piece of land for recreation, rather than being an ancillary feature of another purpose, in this case the beauty of the land as a piece of countryside. I am therefore satisfied that the proposal would not result in harm to the recreational value of the land as currently it is not in a recreational use.
26. Pulling this together the residential development of the site would be harmful to the character and appearance of this section of the countryside and would interrupt views across this part of the LCT. However, this harm would be localised to the immediate environs of the site and would be limited in extent in the area affected and time until new planting had become established and had partially ameliorated the effects of the development.
27. The Council was also concerned about the effect of the development on a Green Wedge which is set out between Bickington and Fremington in the emerging NDTLP in Policy BAR22. The Council maintains that as the ExI did not specifically criticise this policy in her comments this policy should be given more than limited weight in this decision.
28. The Council suggested that Policy BAR22 was designed to prevent a loss of the rural setting of Bickington and this appears as an objective to the policy in the supporting text⁵ rather than in the policy itself. However, this aim seems to

⁵ Paragraph 10.93

duplicate the issue I have assessed under Policy ENV1 of the NDLP and no additional weight should be given to this harm.

29. The NDTLP is an emerging plan and the ExI has made clear in her comments that the Councils "will need to carry out further work in order to make the Plan sound"⁶. Paragraph 216 of the National Planning Policy Framework (the Framework) indicates that weight may be given to emerging plans according to the stage they have reached in their preparation, the extent that there are unresolved objections, and the degree of consistency with the policies of the Framework.
30. While policies to protect gaps between settlements would accord in general terms with the Framework, the plan has not yet reached a stage where the policies within it can be given considerable weight as it has not yet been found sound, or could be made sound subject to specific, and already defined, appropriate modifications. In addition there are remaining objections. In light of this Policy BAR22 can only be given limited weight.
31. Notwithstanding the weight to be given it is necessary to consider the proposal against Policy BAR22. The policy itself indicates it is designed to protect the individual identities of these settlements. Within the Green Wedge it indicates that development which could lead to or contribute to coalescence will be resisted.
32. It is agreed that due to the distance and topography between Bickington and Fremington the development of the appeal site would not lead to any visual coalescence as there would be no intervisibility, similarly there would be no physical coalescence. Thus any harm would be caused by the extension of Bickington into the wedge. The appeal site would be surrounded on three sides by built development and, while this would be on a downslope on a currently undeveloped field, would not materially affect the individual identities of the two settlements as separate settlements. There would still be a positive leaving of one settlement, a travelling through undeveloped countryside without experience of either settlement, and then arrival at the second settlement.
33. Consequently, the proposed development would have a harmful effect on the character and appearance of the area, but this harm would be limited. It would therefore be contrary to Policy ENV1 of the NDLP and Policy BAR22 of the NDTLP both as set out above. It would also be contrary to paragraph 17 of the Framework in that would not recognise the intrinsic character and beauty of the countryside, nor conserve the natural environment.

Highway safety

34. As noted above the Council no longer objects to the proposal on this ground. However, local residents objected about two particular elements, being the general increase in traffic in the area and thus congestion, and secondly the accessibility of the site to the Bickington village centre, particularly for those with mobility issues.
35. The application was accompanied by a Transport Statement and this was supported by further evidence in the proof and rebuttal proof submitted to the Inquiry. These all show that while there would be an increase in traffic on the

⁶ ExI's note HD15 page 1, third paragraph.

network, this would only be minimal within the overall amount of traffic and that would have only a negligible effect on the Cedars roundabout which is of particular concern. In light of this I am satisfied that the amount of traffic caused by the development would not lead to severe residual impacts, which is the test set out in paragraph 32 of the Framework if development is to be prevented on transport grounds.

36. I am also satisfied that emergency vehicles would be able to access the site if necessary as drivers will stop and allow such vehicles to pass.
37. The centre of Bickington with its shops and other local facilities is a short distance to the east along Bickington Road and within walking distance. To pedestrians (including those using wheelchairs and buggies) there are two routes, either dropping down Mead Park to Bickington Road and then along the pavement adjacent to that road, or travelling through Mead Park and then using a metalled but unlit footpath down to Bickington Road. I am satisfied that non-wheelchair users, including those in buggies, would be able to use both routes. Clearly there should be safe and suitable access for all people, as set out in paragraph 32 of the Framework. While the footpath route would not be suitable for everyone using wheelchairs, access to the village centre would be available by dropping down to Bickington Road and then using the existing pavement. This would provide a safe and suitable access and this route is not materially further than the other.
38. Concern was also expressed about the width of the pavement outside a row of dwellings on the north side of Bickington Road between the Mead Park junction and the village centre. However, this is an existing situation and those using the pavement have to give way to one another and this would continue. The increase in pedestrian traffic from the proposal would not be material and I am therefore satisfied that safe and suitable access is achievable.
39. The Public Sector Equality Duty contained in the Equality Act 2010 requires that due regard should be had to the three equality principles set out in section 149 of that Act. I am satisfied that requiring those with mobility issues to use the pavement beside Bickington Road does not affect any one group more than any other as the unlit route is less commodious and therefore does not discriminate, prevent advancement of opportunity or inhibit good relations between groups.
40. I am therefore satisfied that the proposal would not be prejudicial to highway safety. It would therefore comply with Policy TRA6 of the NDLP which requires development to have safe access onto and egress from the highway and that the functioning of the road network or the safety of highway users is not harmed. It would also comply with Policy ST10 of the NDTLP in that it would ensure that access to development is safe and appropriate. It would also comply with paragraph 32 of the Framework as set out above.

Best and most versatile agricultural land

41. The appeal site is made up of Grade 2 Agricultural Land which represents part of the best and most versatile agricultural land.
42. The signed Statement of Common Ground between the appellant and the Council accepted that only limited weight can be given to the harm arising from the loss of the best and most versatile agricultural land at the appeal site given

the prevalence of the best and most versatile agricultural land between Fremington and Bickington and in the wider surroundings. In line with my Colleague who considered the Wainhomes appeal I concur with this assessment for the same reason and will consider this in the planning balance below.

43. Therefore, the proposal would be contrary to Policy ENV7 which seeks to protect the best and most versatile agricultural land. However, in the terms of paragraph 112 of the Framework it has not been demonstrated that, within the overall context of the amount of the best and most versatile agricultural land in the vicinity, this proposal would be a significant development of such land.

Affordable housing and infrastructure

44. Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) (the CIL Regulations) states a planning obligation may only constitute a reason for granting planning permission if the obligation passes three requirements. This is reiterated in paragraph 204 of the Framework. These requirements are that the Obligation is necessary to make the development acceptable in planning terms, that it is directly related to the development and fairly and reasonably related in scale and kind to the development.
45. Regulation 123 of the CIL Regulations also states a planning obligation may not constitute a reason for granting planning permission for the development to the extent that the obligation provides for the funding or provision of relevant infrastructure where five or more separate planning obligations provide for the funding or provision of that project or provide for the funding or provision of that type of infrastructure.
46. Following the submission of a viability assessment the Council accepted that the appeal proposal could not deliver the full amount of affordable housing and contributions towards other infrastructure normally sought. This approach accords with the advice in the national Planning Practice Guidance (the PPG) that where an applicant is able to demonstrate to the satisfaction of the local planning authority that the planning obligation would cause the development to be unviable, the local planning authority should be flexible in seeking planning obligations⁷.
47. I was advised at the Inquiry that the assessment was done on a broad brush analysis rather than on a more detailed approach such as one based on a discounted cash-flow. This means that there will inevitably be a 'margin for error' in relation to the figures. However, I am satisfied that the viability assessment shows the best evidence available at this time.
48. In providing affordable housing the proposal would assist in meeting the needs of the area for affordable housing which was part of the evidence submitted to the NDTLP examination on the overall housing need for the area. The Obligation uses the definition of Affordable Housing as set out in the Framework. The Council sought a more detailed definition particularly in relation to Intermediate Rent seeking it to be based on Local Housing Allowance rather than open market rent and asserts that the viability analysis was undertaken on this basis.

⁷ Reference ID 10-019-20140306

49. While the Glossary to the Framework makes clear that Intermediate housing is homes for rent or sale at a cost between social rent and market levels. As the Intermediate rent is defined in the Obligation as being at 80% of the open market rent I am satisfied that the Intermediate Housing would comply with national policy as set out in the Framework.
50. The Council also criticised the detailed drafting of the Obligation due to a lack of reference to prevent 'staircasing out' of the shared ownership dwellings as the appeal site lies in a designated rural area for the purposes of the Housing Act. Specific reference to this restriction is not necessary as it would duplicate the Housing Act, and I am therefore satisfied that this would not be necessary. The Council also criticised the timescales for the cascade provisions of the Obligation for shared ownership properties, but I am satisfied the one month provision should allow sufficient time for a new occupier to be secured. The appellant indicates that negotiations have been undertaken with a Registered Provider for them to take over the affordable housing. It is therefore highly likely that the affordable housing provision would be owned by a Registered Provider and there is no need for the recycling of staircasing payments via the District Council in the event that a Registered Provider did not own the properties.
51. Looking at the Obligation in the round in respect of affordable housing I am satisfied that the affordable housing is necessary to make the development acceptable in planning terms, that it is directly related to the development and fairly and reasonably related in scale and kind to the development. As affordable housing does not represent infrastructure under the CIL Regulations Regulation 123 is not engaged.
52. The Planning Obligation provides for contributions towards education, both primary and secondary, in the area. As the existing provision is at capacity I am satisfied that the additional population from the development would exacerbate this situation and consequently the contributions are necessary. I am satisfied that they are directly related to the development and fairly and reasonably related in scale and kind to the development. As with all contributions for infrastructure I am advised that it complies with Regulation 123.
53. Similarly a contribution is provided for towards highways enhancements. This would be used towards relieving pressure at two junctions. Although the increase in traffic would be minimal, cumulatively development would have a harmful effect. I therefore find that this contribution is necessary. I am satisfied that it would be directly related to the development and fairly and reasonably related in scale and kind to the development.
54. The Obligation makes provision for a contribution towards a Toucan Crossing, a Toucan Crossing Commuted Sum, a payment towards a Traffic Regulation Order and a Travel Pack to encourage residents to use non-car modes. The Toucan Crossing would be provided to allow safe crossing of Bickington Road and this would encourage the use of non-car modes, including the use of the bus service along Bickington Road, and ensure that it was appropriately delivered. I am therefore satisfied a contribution towards the Crossing is necessary, as well as the other contributions to ensure its satisfactory delivery. It would directly relate to the development and would be fairly and reasonably related in scale and kind to the development.

55. While the Obligation does not include an interest rate provision in the event of late payment of any financial contribution there is still the requirement to deliver the obligations set out. I am therefore satisfied that the non-inclusion is not necessary to make the development acceptable.
56. Finally the Planning Obligation provides for the provision of a Woodland Belt to the west of the appeal site. This is to secure the double hedgerow and footpath and for the reasons set out above is necessary to make the development acceptable, would directly relate to the development and would be fairly and reasonably related in scale and kind to the development. As this would be the first Obligation for this piece of infrastructure it would comply with Regulation 123.

Housing land supply

57. The Framework in paragraph 47 indicates that to boost significantly the supply of housing Local Plans should meet the full objectively assessed needs for market and affordable housing. The NDLP does not meet this and thus, in line with paragraph 215 of the Framework it is not consistent with the policies of the Framework and thus the policies of this plan relating to the supply of housing are of limited weight.
58. To address this issue the Council, along with Torridge District Council, is promoting the NDTLP. However, with the conclusions of the ExI set out above the Council has indicated it is unable to demonstrate that it has a five year supply of housing land and thus in line with paragraph 49 of the Framework relevant policies for the supply of housing should not be considered up-to-date. This will include policies restricting housing to within development boundaries.
59. Because of the contemporaneous nature of the ExI's comments neither main party was able to calculate accurately what it considered the extent of the deficiency in the five year land supply, although all parties accepted her conclusions on what represented the full, objectively assessed needs for market and affordable housing, and there was also no dispute over the 'split' of housing to be delivered in North Devon and Torridge Districts.
60. The differences between the main parties were, in fact, not that marked relating principally to whether discount rates should be applied to unimplemented planning permissions of large sites, and whether one large site would provide for any completions within the next five years. However, the Council has conceded that it is unable to show a five year supply of housing land, and that the deficiency is at least 0.4 of a year. In my view this deficiency is not marginal and I therefore consider that it is not necessary to address these differences further.
61. The Council maintained that one of the reasons for the extent of the deficiency was due to the (in)actions of the development industry by not building out sites with planning permission. When there is a step-change in housing provision then there will be a 'lag' between planning permissions being granted and completions. Part of the reasoning for the 5% or 20% additional buffer is to ensure choice and competition in the market⁸. Although the NDTLP will resolve this issue it is clear that this is some months away from adoption⁹, and thus

⁸ See paragraph 47 of the Framework.

⁹ The Council has indicated that work to address the matters the ExI has identified should be concluded in July 2017, and there will be further elements to the process beyond that date before the Plan is adopted.

some time until the deficit is likely to be resolved. In the meantime, to ensure that the situation does not deteriorate, that further planning permissions will be needed on greenfield sites.

62. In light of the above I conclude that development plan policies for the supply of housing should be considered out-of-date and thus, in line with paragraph 14 of the Framework, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole.

Other matters

63. Local residents were concerned that this proposal would act as a precedent for future development in the area, and that the facilitative link was, in fact, a stalking horse for future development. It is clear that each case should be considered on its individual merits in the light of circumstances pertaining at the time of the decision. I am therefore satisfied that the proposal would not set an undesirable precedent for development on the land immediately to the west of the appeal site.
64. Local residents were concerned about the proposed density of the development and considered that it would appear cramped and out of character with the nature of development in the area. This is principally a matter for any application for reserved matters. However, I note that the application is for "up to 61 No dwellings" and the mix of housing, that is its size, is not fixed. This would ensure sufficient flexibility to ensure that the layout was appropriate.
65. Concerns were also expressed that any layout would not necessarily allow those with mobility problems to move within the site, or that there would be insufficient car parking spaces so that parking would straddle pavements, also affecting those with mobility issues. As the layout is reserved these are issues for any application for reserved matters.
66. Concern was also raised about drainage from the site, and in particular for surface water flooding across the appeal site to the dwellings on lower land on the south side of Bickington Road. The application was accompanied by a Flood Risk Assessment and this indicates that the site could be satisfactorily drained and I note that the Local Lead Flood Authority and Environment Agency had no objection to the proposal. Subject to an appropriate condition I am satisfied the site could be appropriately drained.
67. Finally, I note that Fremington Parish Council has been designated as a relevant body to allow it to promote a Neighbourhood Plan. However, this is still at a very early stage and no proposed policies were put to the Inquiry. Consequently there is no weight from any policies which can be put towards this decision.

Planning balance

68. The Framework indicates in paragraphs 6, 7 and 8 that the purpose of the planning system is to contribute to the achievement of sustainable development. Sustainable development has three roles, economic, social and environmental which cannot be undertaken in isolation because they are mutually dependent.

69. The provision of additional housing will be economically beneficial both during construction and when occupied. While the economic benefit during construction will be short-lived, that of occupation will be in the long-term and, overall, I give this significant weight. Similarly the provision of the housing would be socially beneficial and again is due significant weight, particularly due to the provision of affordable housing where there is an identified need. Against this should be weighed the agreed limited harm in both economic and social terms through the loss of a section of the best and most versatile agricultural land.
70. It is also clear that some of the additional housing needed to meet the full, objectively assessed needs of the NDTLP area will need to be constructed on greenfield sites and, that in line with footnote 11 to paragraph 47 of the Framework, such sites will need to be deliverable. There appear to be no particular impediments to construction on the appeal site meaning that it should be deliverable within the next five years and would thus make a meaningful contribution to housing delivery in the District. I therefore conclude that the proposal would comply with the first two criteria of Policy ENV1 of the NDLP set out above. It would still, however, be contrary to the third criterion of this policy as explained above.
71. The infrastructure provided under the Planning Obligation is to mitigate the effects of the development and therefore is of neutral weight in the overall balance.
72. I have found the proposal would be harmful to the environment through its effect on the character and appearance of the area, but that this harm would be limited in extent and would be partially ameliorated over time. The environmental harm from the loss of the best and most versatile agricultural land would also be limited. However, there would be no harm, environmental or social, through the development of the site to the green wedge between Bickington and Fremington. Due to the location of the site in close proximity to the settlement of Bickington with its facilities it would be in an accessible location and would be acceptable in terms of its effects on the highway network. Overall, there are no harms, either on their own, or cumulatively, which significantly or demonstrably outweigh the benefits of the development, when assessing the proposal as a whole against the policies of the Framework.
73. While the proposal would, overall, be contrary to the terms of the development plan in that it would represent development in the countryside, other material considerations indicate that the decision should be made contrary to that plan and consequently the appeal allowed and planning permission granted.

Conditions

74. I have considered the conditions put forward in the Statement of Common Ground against the requirements of the PPG and the Framework. The numbers of the conditions imposed are given in brackets. In addition to the standard timescale conditions (1, 2, 3), I have imposed a condition specifying the relevant drawings (4), including the parameters plans, as this provides certainty.
75. As layout is not for consideration as part of this proposal I consider that any condition relating to the levels of the proposed development should be dealt with at the reserved matters stage. Similarly, as landscaping is reserved

conditions relating to the submission of landscaping details, implementation and management should be dealt with at the reserved matters stage. Details of lighting would form part of the layout.

76. Because of the need to protect the trees and hedgerows around the perimeter of the site to ensure the effect on the character and appearance of the area is minimised a condition is needed at this outline stage to ensure tree and hedgerow protection is provided and maintained during the construction period (5).
77. In order to protect the ecology of the area the mitigation measures set out in the Ecological Impact Assessment need to be delivered (6), and to ensure that appropriate surface water drainage is delivered to prevent an increase in flood risk a condition securing an appropriate scheme and its implementation is needed (7). As there is the potential for there to be archaeological remains on the site, a programme securing recording of such is necessary (8). However, given the previous use of the site for agriculture I am not satisfied that a condition relating to unexpected contamination is necessary.
78. In order to protect the living conditions of the occupiers of those living in the vicinity of the appeal site during the construction period, a Construction Method Statement is necessary. This should include details as to when development operations and deliveries may take place (9).
79. As access is for consideration I am satisfied that details of the extent of the access shown on the application drawings needs to be agreed in the interests of highway safety (10). However, as the remaining highways will form part of the layout, details of the construction of these, along with the timing of their delivery, should be dealt with at the reserved matters stage. Provision of parking and its delivery forms part of the layout and should therefore be dealt with at the reserved matters stage. Requiring surface water not to discharge onto the public highway is a duplication of powers under the Highways Act and is therefore not necessary.
80. Following the Written Ministerial Statement (the WMS) of 25 March 2015 technical standards for housing, including their energy performance, are covered under the Building Regulations. While the enhanced Housing Optional Technical Standards can be applicable the WMS makes it clear that such standards can only be applied where there is a relevant current local plan policy. In this case, the new Housing Standards post-date the relevant policy in the NDLP, and the NDLP has yet to reach an advanced stage. Consequently I do not consider such a condition is justified.
81. Where necessary and in the interests of clarity and precision I have altered the conditions to better reflect the relevant guidance.

Conclusion

82. For the reasons given above, and taking into account all other matters raised, I conclude that the appeal should be allowed.

RJ Jackson

INSPECTOR

Schedule of 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 takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - 15113 L01.01 Revision A Site Location Plan
 - 15113 L01.02 Revision B Parameters Plan – Access
 - 15113 L01.03 Revision B Parameters Plan – Building Heights
 - 15113 L01.04 Revision B Parameters Plan – Site Areas & Density
- 5) No equipment, materials or machinery shall be brought on site in connection with the development hereby permitted, and no works, including site clearance or any other preparatory works, undertaken until tree and hedgerow protection measures have been erected on site in locations and in accordance with details submitted to and approved in writing by the local planning authority and subsequently agreed in writing by the local planning authority as complete. The protection shall be retained until the development is complete and nothing shall be placed within the fencing, nor shall any ground levels be altered or excavations made within that area without the prior written consent of the local planning authority.
- 6) No development shall take place until a timetable for the implementation of the mitigation measures set out in the Ecological Impact Assessment submitted with the application, including the submission of a Landscape and Ecological Management Plan, has been submitted to and approved in writing by the local planning authority.
- 7) No development shall take place until details of the proposed surface water drainage have been submitted to, and approved in writing by, the local planning authority. The development hereby permitted shall not be occupied until all the surface drainage works have been carried out in accordance with the approved details.
- 8) No development shall take place until a scheme for the implementation of a programme of archaeological work has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved scheme.
- 9) No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) wheel washing facilities;

- v) measures to control the emission of dust and dirt during construction;
- vi) a scheme for recycling/disposing of waste resulting from construction works;
- vii) delivery and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 10) No development shall take place on site until the detailed design, levels, gradient, materials and method of construction of the access shown on drawing number 15113 L01.02 Revision B has been submitted to and approved in writing by the local planning authority. No other part of the development hereby approved shall be commenced until this access 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, with the ironwork to base course level, the visibility splays shown laid out, and the footway to the public highway constructed to base course level.

END OF SCHEDULE

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Peter Wadsley, of Counsel assisted by Philip Robson, of Counsel,
instructed by the Solicitor to North Devon District
Council

He called

Nigel Evers DipLA CLI Director, Peter Brett Associates LLP

Peter Rowan DipTP
MRTPI Principal, Rowan Edwards

Graham Townsend MA Development Enabling Officer, North Devon
DipTCP LRTPI District Council

FOR THE APPELLANT:

Wayne Beglan, of Counsel instructed by Elliot Jones, Boyer Limited

He called

Mark Flatman BA (Hons) Director, Liz Lake Associates
CMLI Dip LA

Ian Awcock CEng MICE Director, Awcock Ward Partnership
MCIHT MCIWEM

Robin Upton BSc (Hons) Director, WYG Planning & Environment
MRTPI

Elliot Jones BSc (Hons) Director, Boyer Limited
Dip TP MRTPI

INTERESTED PERSONS:

Maureen Bennet Local Resident

Cllr Rodney Cann District and Parish Councillor

Cllr Frank Biederman County, District and Parish Councillor

Hilary Pierce BEd (Hons) Local Resident

Cllr David Chalmers Parish Councillor and Local Resident

John Gulliver Local Resident

Julie Adnams Hatch Local Resident

CORE DOCUMENTS

CD1 Application Documentation
CD2 Additional information submitted post-submission
CD3 Consultation responses submitted in respect of application
CD4 Assessment of Landscape and Visual Impacts
CD5 Committee Report
CD6 Agreed Statement of Common Ground

CD7	North Devon Local Plan 1995-2011
CD8	North Devon and Torridge Local Plan 2011-2031 Publication Draft (June 2014)
CD9	North Devon and Torridge Local Plan 2011-2031 (incorporating Proposed and Minor Changes) Track Change version (March 2015)
CD10	North Devon and Torridge Local Plan 2011-2031 Publication Draft – Proposed Main Changes, Portfolio of Proposed Map and Figure Changes (March 2015)
CD11	North Devon and Torridge Local Plan 2011-2031 Additional Proposed Main Changes (October 2015)
CD12	North Devon and Torridge Local Plan 2011-2031 Additional Proposed Main Changes (February 2016)
CD13	North Devon District Council Affordable Housing Code of Practice SPD (2004)
CD14	North Devon District Council Public Open Space, Sport and Recreation Code of Practice (2004)
CD15	North Devon and Torridge Local Plan 2011-2031 Topic Paper: Establishing an Objectively Assessed Need (OAN) and Housing Requirement (May 2016)
CD16	North Devon and Torridge Local Plan 2011-2031 Topic Paper: Housing Land Supply (May 2016)
CD17	Joint Housing Topic Paper for the Northern Peninsular Housing Market Area (May 2016)
CD18	North Devon's Five Year Housing Land Supply Statement as at 1 April 2016
CD19	Northern Peninsular Housing Market Area Strategic Housing Market Assessment: the Implications of 2012-based Household Projections
CD20	Northern Peninsular Housing Market Area Strategic Housing Market Assessment (SHMA) Update 2015
CD21	Appeal Decision: Land at Birch Road, Barnstaple (APP/X1118/W/15/3021708)
CD22	Appeal Decision: Land at Mead Park, Bickington, Barnstaple (APP/X1118/W/15/2224465)
CD23	Appeal Decision: Land adjacent to the B3233, West Yelland, near Barnstaple (APP/X1118/W/15/3003545)
CD24	North Devon and Torridge Local Plan 2011-2031 Topic Paper: Affordable Housing (May 2016)
CD25	North Devon and Torridge Local Plan 2011-2031 Examination November 2016 – Written Statement – Matter 2: Housing (October 2016)
CD26	North Devon and Torridge Local Plan 2011-2031 Councils' response to the Inspector's Request (EC05) regarding Topic Paper: Housing Land Supply (August 2016)
CD27	Housing and Economic Needs Assessment – Torridge and North Devon Councils – GL Hearn (May 2016)

INQUIRY DOCUMENTS

ID1	Completed Section 106 Planning Obligation dated 2 December 2016
ID2	Summary of ID1
ID3	List of Appearances put in on behalf of Appellant
ID4	Opening Statement on behalf of Appellant
ID5	Opening Statement on behalf of North Devon District Council

ID6	Bundle of High Court decisions submitted on behalf of North Devon District Council
ID7	Rebuttal Proof of Mr Awcock
ID8	Transcript of Statement by Local Plan Inspector at conclusion of November/December 2016 Hearings
ID9	North Devon District Council - Position Statement on Five Year Housing Land Supply
ID10	List of Major and Minor Modifications submitted to the Local Plan Examination
ID11	North Devon District Council - Position Statement on Transport Matters
ID12	Appeals Decision: Land off Peter Destapeleigh Way, Nantwich (APP/R0660/A/13/2197532 and APP/R0660/A/13/2197529)
ID13	Extract of Objection by Wainhomes (South West) Holdings Ltd to North Devon and Torridge Local Plan 2011-2031
ID14	Replacement for Appendix GT 8 to Mr Townsend's Proof of Evidence
ID15	Closing statement on behalf of North Devon District Council
ID16	Inspector's Note to the Councils following the Closure of Hearings on 6 November 2016 [should read 6 December 2016]
ID17	Closing Statement on behalf of Appellant

POST INQUIRY DOCUMENTS

PID1	Email chain relating to Sustainable Travel Vouchers
PID2	Completed Supplementary Section 106 Planning Obligation dated 20 December 2016
PID3	Explanatory Note regarding PID2
PID4	Comments of North Devon District Council on PID2 and PID3
PID5	Comments by appellant on PID4
PID6	Comments of North Devon District Council on PID5