



Department for
Communities and
Local Government

Mr I Jewson
Ian Jewson Planning Ltd
1 Gas Ferry Road
Bristol BS1 6UN

Our ref: APP/P1133/W/16/3148597
Your ref: PR.104

6 April 2017

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL MADE BY LINDEN HOMES SOUTH WEST LTD
LAND AT WHITEHILL, EXETER ROAD, NEWTON ABBOT
APPLICATION REF: 14/01797/MAJ**

1. I am directed by the Secretary of State to say that consideration has been given to the report of Paul Griffiths BSc (Hons), BArch, IHBC, who held a public local inquiry on 8-9 November 2016 into your client's appeal against the decision of Teignbridge District Council to refuse planning permission for your client's application for planning permission for 203 dwellings, public open space, and associated infrastructure, in accordance with application ref: 14/01797/MAJ, dated 13 June 2014.
2. On 5 July 2016 this appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that the appeal be allowed, and planning permission granted subject to conditions.
4. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, and agrees with his recommendation. He has decided to allow the appeal and grant planning permission, subject to conditions. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Procedural matters

5. During the course of the application, the scheme was amended, such that the description of the revised scheme is 'the erection of 203 dwellings, public open space and associated infrastructure' (IR3). The Secretary of State notes that this is the basis on which

evidence has been given, the report has been written and the recommendation has been made. He is therefore satisfied that no interests will be prejudiced by making his decision on that basis.

6. An application for a full award of costs was made by your client against the Council, and by the Council against your client (IR4). These applications are the subject of separate decision letters.

Policy and statutory considerations

7. In reaching his decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
8. In this case the development plan consists of the Teignbridge Local Plan 2013-2033, and the Whitehill, Newton Abbot Development Framework Plan Supplementary Planning Document, and the Newton Abbot Neighbourhood Plan. The Secretary of State considers that the development plan policies of most relevance to this case are those set out at IR10-14.
9. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework ('the Framework') and associated planning guidance ('the Guidance').
10. In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA Act), the Secretary of State has paid special regard to the desirability of preserving those listed buildings potentially affected by the proposals, or their settings or any features of special architectural or historic interest which they may possess.

Main issues

11. The Secretary of State agrees with the Inspector that the main issues are those set out at IR74.

The effect on the setting of the Parish Church of All Saints

12. The Secretary of State has had regard to the Inspector's analysis at IR75-79. For the reasons set out at IR76-77 the Secretary of State agrees that the proposal would have an impact on the setting of the Parish Church of All Saints. However, for the reasons given by the Inspector he agrees that some impact must have been factored in when the allocation of the site for development through LP Policy NA2 was found sound. He thus agrees that there can be no in-principle objection to the development of the appeal site, and as such has gone on to consider whether there is anything in the design of the scheme that makes the impact more harmful than it should be.
13. For the reasons given at IR78-79 the Secretary of State agrees that there would be something of a harmful impact on the setting and thereby the significance of the Church but the harm to significance, bearing in mind the advice in the Guidance and the high bar set for a finding of substantial harm, would clearly be less than substantial.

The effect on the setting of Whitehill House

14. The Secretary of State agrees, for the reasons set out by the Inspector at IR80-81 that there would be an impact on the setting, and thereby the significance, of Whitehill House. However, he agrees that this impact must be seen in the context of the allocation of the appeal site for development as part of LP Policy NA2 (IR81). As such he has gone on to consider whether there is something about the design of the scheme that makes it more harmful than it need be.
15. For the reasons given at IR82, the Secretary of State agrees that its historic purpose would remain readily discernible, but that there would be something of a harmful impact on the setting and thereby the significance of Whitehill House. However he agrees that, bearing in mind the advice in the Guidance, that this would be less than substantial (IR83).
16. The Secretary of State has had regard to s66(1) of the Act, and paragraph 132 of the Framework, and thus attaches considerable importance and weight to the harm to the setting and significance of these listed buildings. However, in agreement with the Inspector he concludes that the importance attached by the Local Plan to the LP Policy NA2 allocation, even with the seemingly healthy position of the District in terms of housing land supply, that the public benefits of bringing forward the housing proposed clearly outweigh the harm to the significance of the listed buildings that would be affected by it. He thus concludes that there would be no conflict with LP Policy EN5, in agreement with the Inspector at IR85.

The effect on Church Path

17. For the reasons set out by the Inspector at IR86 the Secretary of State agrees that Church Path merits consideration as a non-designated heritage asset. He further agrees, for the reasons given, that while its route contributes most to its significance, it does draw some significance from its setting. For the reasons given at IR87 the Secretary of State agrees that the LP policy NA2 allocation means that the appearance of housing on the appeal site, which would be visible from Church Path, is an expectation.
18. The Secretary of State has had regard to the Inspector's analysis at IR88-89 and agrees, for the reasons given, that the layout proposed would not bring housing unreasonably or uncomfortably close to Church Path and the significance of it as an historic route would be largely unaffected (IR90). He further agrees that the visible presence of housing, at the separation distances proposed, would not have an unduly harmful impact on the integrity and context of Church Path, its setting or its significance.
19. As such he agrees with the Inspector at IR91 that there is no departure from the requirements of paragraph 7.14 of the Whitehill, Newton Abbot (NA2) Development Framework Plan Supplementary Planning Document and nothing in the design that brings it into conflict with LP Policy S2 a) or k) or the approach of the Framework. With regard to paragraph 135 of the Framework, he agrees that the benefits inherent in the scheme far outweigh any harm to the significance of Church Path.

Other matters

20. For the reasons given at IR92 the Secretary of State agrees that there would be sufficient separation between the proposal and existing houses on Blenheim Close to prevent any dominant or overbearing visual impact. He further agrees that there is no good reason

why a scheme could not be devised that dealt with surface water drainage in a way that did not impact on existing residents, or which could secure improvements in relation to it.

21. The Secretary of State has considered the Inspector's analysis at IR93 and agrees that there is nothing inherently dangerous about the interaction of traffic and pedestrians on Exeter Road. He further agrees that the pedestrian and vehicular accesses to the site proposed are perfectly acceptable. The Secretary of State agrees that provision has been made by condition and through the Obligation to ensure that there would be no significant impact on Greater Horseshoe Bats or the South Hams Special Area of Conservation as a result of the proposals. He further agrees that a sensible relationship in terms of access between the occupiers of Whitehill House and the proposed development can be secured through condition. He also agrees that any of the archaeological significance of the site could be secured through suitable condition.

Neighbourhood Plan

22. The Secretary of State agrees (IR94) that there is no conflict with the Newton Abbot Neighbourhood Plan. He thus concludes that his Written Ministerial Statement of 12 December 2016 is not engaged.

Planning conditions

23. The Secretary of State has given consideration to the Inspector's analysis at IR60-67, the recommended conditions set out at the end of the IR and the reasons for them, and to national policy in paragraph 206 of the Framework and the relevant Guidance. He is satisfied that the conditions recommended by the Inspector comply with the policy test set out at paragraph 206 of the Framework and that the conditions set out at Annex A should form part of his decision.

Planning obligations

24. Having had regard to the Inspector's analysis at IR68-71 the planning obligation dated 9 November 2016, paragraphs 203-205 of the Framework, the Guidance and the Community Infrastructure Levy Regulations 2010, as amended, the Secretary of State agrees with the Inspector's conclusion for the reasons given in IR72 that the obligation complies with Regulation 122 of the CIL Regulations and the tests at paragraph 204 of the Framework and is necessary to make the development acceptable in planning terms, is directly related to the development, and is fairly and reasonably related in scale and kind to the development.

Planning balance and overall conclusion

25. For the reasons given above, the Secretary of State considers that the appeal scheme is in accordance with Policies S2, NA2 and EN5 of the development plan, and is in accordance with the development plan overall. He has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in accordance with the development plan.
26. For the reasons set out above, the Secretary of State gives substantial weight to the public benefits of securing housing, in line with the Policy NA2 allocation, even in the presence of a healthy housing land supply. Against the development he weighs the 'less than substantial' impact to the significance of Church Path, the impact on the significance of the Parish Church of All Saints and Whitehill House, to which he affords substantial

weight, having regard to his duties under s66(1) of the LBCA Act. He concludes that the benefits of the proposal outweigh its negative impacts.

27. The Secretary of State therefore concludes that there are no compelling reasons that warrant deciding the appeal other than in accordance with the development plan, and thus concludes that the appeal should be allowed.

Formal decision

28. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby allows your client's appeal and grants planning permission, subject to the conditions set out in Annex A of this decision letter, for 203 dwellings, public open space, and associated infrastructure, in accordance with application ref: 14/01797/MAJ, dated 13 June 2014.

29. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the Town and Country Planning Act 1990.

Right to challenge the decision

30. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within 6 weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.

31. A copy of this letter has been sent to Teignbridge District Council, and notification has been sent to others who asked to be informed of the decision.

Yours faithfully

Philip Barber

Authorised by Secretary of State to sign in that behalf

Annex A List of conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1958-100 Revision B: Site Location Plan; 1959 104 Revision B: House Type A20; 1959 105 Revision B: House Type A22; 1958-107 Revision B: House Type A32; 1958-108 Revision B: Unit Plan Flats Block; 1958-109 Revision B: House Type H405; 1958-110 Revision B: House Type H307; 1958-111 Revision B: House Type H303; 1958-112 Revision B: House Type H302; 1958-113 Revision B: House Type H404; 1958-114 Revision B: Unit Plan – L1; 1958-116 Revision B: Unit Plan L10; 1958-117 Revision B: Unit Plan L3; 1958-118 Revision B: Unit Plan L3A; 1959-124 Revision B: House Type LHSW VAR1; 1958-125 Revision B: House Type LHSW VAR10; 1959-126 Revision B: House Type LHSW VAR11; 1959-127 Revision B: House Type LHSW VAR9; 1958-128 Revision B: House Type LHSW VAR28; 1959-130 Revision B: House Type LHSW VARL; 1958-131 Revision B: Unit Plan Inv FOG HER; 1958-133 Revision C: Elevation Allocations Plan; 1958 134 Revision B: Tree Planting Plan; 1958 136 Revision B: Management Plan; 1958-137A Revision B: Boundary Treatments; 1958-138 Revision A: External Works Details; 1958-139 Revision A: Street Section; 1958-140 Revision A: Typical Street Sections; 1958-143 Revision A: Unit Type – Type J; 1958-144 Revision A: Unit Type HT 204; 1958-145 Revision A: Unit Type HT 304; 1958-146 Revision A: Unit Type HT 402; 1958-147 Revision B: Unit Type A 34; 1958-148 Revision B: Unit Type A 40; 1958-149 Revision A: Unit Type TYPE 15; 1958-150 Revision A: Unit Types – Type H; 1958-151 Revision A: Unit Type HT 203; 1958-152 Revision A: Unit Type HT 405.A; PHL/01 Rev.E: Preliminary Site Access Junction Layout; PDL/100 Rev.D: Preliminary Drainage Layout; PHL/201 Rev.C: Preliminary Levels Plan (Sheet 1); PHL/202 Rev.C: Preliminary Levels Plan (Sheet 2); PHL/301 Rev.B: Preliminary Highway Profiles (Sheet 1); PHL/302 Rev.B: Preliminary Highway Profiles (Sheet 2); PHL/303 Rev.B: Preliminary Highway Profiles (Sheet 3); PHL/304 Rev.B: Preliminary Highway Profiles (Sheet 4); PHL/305 Rev.B: Preliminary Highway Profiles (Sheet 5); 1958-101 Revision F: Proposed Site Plan; 1958-102 Revision E: Site Section A-A & B-B; 1958-103 Revision D: Site Section C-C & D-D; 1958-119 Revision C: Unit Plan – L4; 1959-120 Revision C: Unit Plan L4A; 1958-129 Revision C: House Type LHSW VAR C; 1958-132 Revision D: Street Elevations as Proposed; AL (0) 08 Rev.A: Application Site; PHL/211 Rev.A: Preliminary S38 Plan; AL (0) 20-1 Rev.C: Flat Block 1 Plans Drawing 1 of 4; AL (0) 20-3 Rev.D: Flat Block 1 Elevations 1 Drawing 3 of 4; AL (0) 20-4 Rev.D: Flat Block 1 Elevations 2 Drawing 4 of 4; AL (0) 27-3 Rev.C: Flat Block 2 Elevations 1 Drawing 3 of 4; AL (0) 28-1 Rev.B: Flat Block 3 Plans Drawing 1 of 2; AL (0) 28-2 Rev.C: Flat Block 3 Elevations Drawing 2 of 2; AL (0) 32: Typical Detached Garage Design; AL (0) 10-2 Rev.C: House Type L1 Elevations Drawing 2 of 4; AL (0) 11-1 Rev.B: House Type L2 Plans Drawing 1 of 2; AL (0) 14-1 Rev.A: House Type L4 Plans Drawing 1 of 2; AL (0) 14-2 Rev.C: House Type L4 Elevations Drawing 2 of 2; AL (0) 17-1 Rev.C: House Type L6 Plans Drawing 1 of 2; AL (0) 17-3 Rev.B: House Type L6 Elevations Drawing 2 of 2; AL (0) 18-1 Rev.B: House Type L7 Plans Drawing 1 of 2; AL (0) 18-3 Rev.A: House Type L7 Elevations Drawing 3 of 3; AL (0) 21-2 Rev.C: House Type L10 Elevations Drawing 2 of 4; AL (0) 26-1 Rev.A: House Type L15 Plans Drawing 1 of 1; AL (0) 29-1 Rev.A: House Type L16 Drawing 1 of 2; AL (0) 29-2 Rev.C: House Type L16 Elevations Drawing 2 of 3; AL (0) 29-3 Rev.B: House Type L16 Elevations Drawing 3 of 3; 9451: Entrance Area: POS Proposals; 9454: Entrance Area: POS Proposals (Detail); 9452: Play Area; 13.105.1.TCP: Tree Constraints Plan (North – Plan 1 of 2); 13.105.1.TCP: Tree

Constraints Plan (South – Plan 2 of 2); and 13.105.1.TCP.rep: BS5837:2012 Tree Survey and Tree Constraints Plan.

- 3) No development shall commence until details of the phasing of the development have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) No self-build dwelling shall commence until details of its location, scale, and external appearance have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 5) No development of any dwelling in any phase above DPC level shall take place until details and samples of the materials to be used in the construction of the external surfaces of the dwellings, and in the associated hard landscaping, in that phase, have been submitted to and approved in writing by the local planning authority. Development of the relevant phase shall be carried out in accordance with the approved details.
- 6) No development shall take place in any phase until details of hard and soft landscaping works in that phase have been submitted to and approved in writing by the local planning authority. Development of the relevant phase shall be carried out in accordance with the approved details.
- 7) No development of any dwelling in any phase above DPC level shall take place until details of all means of enclosure and boundary treatments, including buffers to existing and new hedging, for that phase have been submitted to and approved in writing by the local planning authority. Development of the relevant phase shall be carried out in accordance with the approved details.
- 8) No development of any dwelling in any phase above DPC level shall take place until details of (a) porch canopies; (b) doors, windows, garage doors, and associated reveals, sills and lintels; (c) ducts, flues and vents; (d) rainwater goods; (e) meter boxes; and (f) areas for storage of refuse and recycling bins and the kerbside collection point; relating to the dwellings in that phase have been submitted to and approved in writing by the local planning authority. Development of the relevant phase shall be carried out in accordance with the approved details.
- 9) Prior to the occupation of any particular dwelling, the car parking provision associated with it shall have been completed in accordance with the approved plans. The area shall be retained thereafter for its intended purpose.
- 10) No dwelling shall be occupied until details of the provision of open space and play equipment, including a timetable, and their ongoing maintenance, shall have been submitted to and approved in writing by the local planning authority. Development shall be carried out and operated thereafter in accordance with the approved details.
- 11) No development shall take place in any phase until details of the surface water drainage system and the implementation (including a timetable), maintenance and management of the sustainable drainage scheme relating to that phase have been submitted to and approved in writing by the local planning authority. Development shall be carried out and operated thereafter in accordance with the approved details.
- 12) If, during development of any phase, contamination not previously identified is found to be present at the site, then no further development of that phase shall be carried out until an investigation strategy and risk assessment and, where necessary, a remediation strategy and verification plan detailing how this unsuspected contamination will be dealt with has been submitted to and approved in writing by the local planning authority. No part of that phase shall be occupied until measured identified in the approved remediation strategy and verification plan have been completed and a verification report demonstrating completion

of the approved remediation works and the effectiveness of the remediation has been submitted to and approved in writing by the local planning authority.

- 13) No dwelling shall be occupied until details of a piece of public art to form part of the development, including a timetable for its provision, have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 14) No development shall take place in any phase until a Landscape and Ecology Implementation and Management Plan (LEMP) for that phase has been submitted to and approved in writing by the local planning authority. The LEMP shall include the necessary bat mitigation measures, a timetable for the implementation of all the landscaping and ecology work, and details of the management regime. The LEMP shall be implemented and subsequently operated in accordance with the approved details.
- 15) No external lighting shall be installed in any phase of the development until details have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and retained as such thereafter.
- 16) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and re-enacting that Order with or without modification), no windows shall be installed in the elevations facing onto Whitehill Road on Plots 1, 27, 28 and 37, other than those expressly authorised by this grant of permission.
- 17) No development shall take place in any phase until a Construction Environmental Management Plan (CEMP) relating to that phase has been submitted to and approved in writing by the local planning authority. Each CEMP shall include details of site layout and access, including the means by which access to Whitehill House is to be maintained while site works are taking place; haulage routes; site equipment; wheel-washing facilities; the location of the water supply for damping-down; inventory and timetable of all dust-generating activities; list of dust and emission control methods to be used; identification of an authorised responsible person on site for air quality; summary of monitoring protocols and an agreed procedure for notification to the local authority; a site log book to record details and action taken in response to incidences of the air quality objectives being exceeded and any exceptional incidents; and proposed hours of working (including construction, deliveries, and other traffic movements to and from the site). All vehicles leaving the site must be wheel-washed if there is any risk of an effect on nearby roads and properties and a paved area between the wheel-wash facility and the highway shall be provided.
- 18) No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation first submitted to and approved by the local planning authority.
- 19) No dwelling shall be occupied until details of the means by which access to Whitehill House is to be provided and maintained once the development is occupied have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and retained as such thereafter.

Report to the Secretary of State for Communities and Local Government

by Paul Griffiths BSc(Hons) BArch IHBC

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

Date: 8 February 2017

The Town and Country Planning Act 1990

Appeal by

Linden Homes South West Ltd.

Against the Decision of

Teignbridge District Council

Inquiry opened on 8 November 2016

Land at Whitehill, Exeter Road, Newton Abbot

File Ref: APP/P1133/W/16/3148597

File Ref: APP/P1133/W/16/3148597

Land at Whitehill, Exeter Road, Newton Abbot

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Linden Homes South West Ltd against the decision of Teignbridge District Council.
- The application Ref.14/01797/MAJ, dated 13 June 2014, was refused by notice dated 27 November 2015.
- The development proposed is described as 'full planning for the erection of 228 dwellings, public open space, and associated infrastructure'.

Summary of Recommendation: The appeal be allowed, and planning permission granted subject to the conditions in Annex C.

Procedural Matters

1. The Inquiry opened on 8 November 2016, and also sat on 9 November, when it was closed. I carried out an accompanied visit to the site, and its surroundings, on 10 November 2016.
2. I was also asked to take in a series of wider views of the site and the Parish Church of All Saints, Highweek, as suggested by the Council¹. Notwithstanding objections from the appellant, and the nature of the case advanced by the Council, I carried out these visits on an unaccompanied basis in order to be able to properly address concerns raised by interested persons.
3. During the course of the application, the scheme was amended and it was a revised scheme that the Council took its decision upon. I have dealt with the appeal and approached this Report on the basis of the scheme the Council took its decision upon. As set out in the Statement of Common Ground², the description of that revised scheme is 'the erection of 203 dwellings, public open space, and associated infrastructure'.
4. At the Inquiry an application for costs was made by the appellant against the Council, and by the Council against the appellant. These applications are the subject of a separate Report.
5. The appeal was recovered by the Secretary of State on 5 July 2016. The reasons for the direction are that the appeal involves: proposals for residential development of 150 or more dwellings OR on more than 5 hectares of land which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities; and a proposal for residential development of over 10 units in areas where a qualifying body has submitted a neighbourhood plan proposal to the local planning authority, or where a neighbourhood plan has been made.
6. After the Inquiry closed, I approached the main parties to ascertain whether the Written Ministerial Statement of 12 December 2016 had any bearing on their cases as presented. The responses are attached as Inquiry documents³.

¹ Inquiry Document 23

² Inquiry Document 22 referred to hereafter as SoCG

³ Inquiry Document 24 referred to hereafter as WMS

The Site and Surroundings

7. As set out in the SoCG⁴, the site is made up of around 8 hectares of undeveloped pasture, located off Whitehill Road, relatively close to Newton Abbot town centre. The site is bisected by a tree-lined, gravel drive which has historically provided an access to Whitehill House, a Grade II listed building that lies adjacent to the site. The site is bordered to the north-west by Whitehill Road, to the east by Exeter Road (the A382), to the south by the Blenheim Close residential estate, and to the south-west by farmland.
8. Highweek village, and the Parish Church of All Saints, a Grade I listed building, lie to the west of the site. Access to the Church can be gained from Exeter Road by using Church Path, a footpath that runs along the southern boundary of the site.

Planning Policy

9. The development plan for the area includes the Teignbridge Local Plan 2013-2033⁵ which was adopted on 6th May 2014.
10. The appeal site is covered by LP Policy NA2 Whitehill which allocates a site of approximately 30 hectares for the purposes of delivering a sustainable, high quality, mixed use development. This is required to deliver, amongst other things, at least 450 homes with a target of at least 20% as affordable homes; 2 hectares of land for employment development; a community facility that provides a focal point for the new neighbourhood; improvements to the road network to allow ease of movement through the site and reduce traffic through Highweek village; areas for local food production; formal on-site recreation space; and a bespoke Greater Horseshoe Bat mitigation plan demonstrating that there will be no adverse effect on the South Hams SAC alone, or in combination with other plans or projects.
11. Of particular relevance to the appeal, LP Policy NA2 requires the development of the allocation to include a comprehensive and design led master-plan, produced with meaningful and continued input and engagement from stakeholders. As far as the Council is concerned, and notwithstanding work carried out by the appellant, this master-plan is represented by the Whitehill, Newton Abbot (NA2) Development Framework Plan Supplementary Planning Document⁶. LP Policy S14 sets out the importance attached by the LP to Newton Abbot as part of the Heart of Teignbridge and its place as the business, educational, leisure and retail centre for South Devon.
12. The Council has also referred to LP Policy S2. This requires new development to be of high quality design which will support the creation of attractive, vibrant places. Designs should be specific to the place, based on a clear process which analyses and responds to the characteristics of the site, its wider context and the surrounding area, creating a place with a distinctive character.
13. Account should be taken of a number of objectives notably a) the integration with and, where possible, the enhancement of the character of the adjoining built and natural environment, particularly affected heritage assets; and k) respect for the

⁴ Inquiry Document 22

⁵ Core Document 1 referred to hereafter as LP

⁶ Core Document 4

distinctive character of the local landscape and seascape, and the protection and incorporation of key environmental assets of the area, including topography, landmarks, views, trees, hedgerows, wildlife habitats, heritage assets, and skylines.

14. LP Policy EN5 deals specifically with heritage assets. To protect and enhance the area's heritage, consideration of development proposals should take into account the significance, character, setting and local distinctiveness of any affected heritage asset, particularly those of national importance.
15. In terms of the listed buildings affected by the proposals, it is important to note the statutory provisions of the Planning (Listed Buildings and Conservation Areas) Act 1990⁷.
16. Section 66(1) sets out that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
17. Reflective of that, paragraph 132 of the National Planning Policy Framework⁸ says that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be.
18. Paragraphs 133 and 134 set out the procedures to follow when substantial or less than substantial harm to the significance of a designated heritage asset is the result of a proposal. Paragraph 135 does likewise in terms of non-designated heritage assets. In very simple terms, any harm to the significance of a heritage asset, bearing in mind what paragraph 132 says about weight, and in terms of listed buildings, the operation of Section 66(1) of the Act, is to be weighed against public benefits.
19. The Framework also sets great store on good design. Paragraph 56 sets out that the Government attached great importance to the design of the built environment. Good design is, we are told, a key aspect of sustainable development, indivisible from good planning, and should contribute positively to making places better for people.
20. While there is nothing in it that bears directly on the proposals, the Newton Abbot Neighbourhood Plan is worthy of note⁹.

The Proposals

21. As set out in the SoCG¹⁰, and referred to above, the original proposal, as submitted to the Council in June 2014, was for 228 new dwellings, public open space, and associated infrastructure. The scheme was amended in the course of the application largely to reduce the western projection of the development towards the Parish Church of All Saints.

⁷ Referred to hereafter as the Act

⁸ Referred to hereafter as the Framework

⁹ Core Document 7

¹⁰ Inquiry Document 22

22. As a consequence, the scheme the Council made its decision to refuse planning permission upon, in November 2015, was for 203 dwellings, public open space, and associated infrastructure.

The Case for the Council

23. The case for the Council is set out in their closing statement to the Inquiry¹¹ and in the evidence presented by their witnesses. What follows is a brief summary.
24. In essence, the appeal raises a simple question: Should planning permission be granted for a development that the local planning authority consider unacceptable when judged against a Supplementary Planning Document required by a specific LP policy, and formulated after public engagement? The answer is very simple: No.
25. The detailed design of the proposal, with specific reference to the way it relates to Church Path, is unacceptable because the dwellings proposed would not be set far enough back from it. The scheme conflicts, therefore, with LP Policy S2, which requires high quality design and paragraph 7.14 of the Whitehill, Newton Abbot (NA2) Development Framework Plan Supplementary Planning Document. This makes clear that: *Development must be set back from Church Path so as to help preserve the integrity and context of this important historic right of way leading to the Grade I listed All Saints Church.*
26. Of course, the starting point for consideration of the proposal is Section 38(6) of the Planning and Compulsory Purchase Act 2004 but it cannot sensibly be argued that the need to provide new homes trumps all other considerations, including design, and the integrity of heritage assets, because this would undermine not only the LP, but also the Framework, that sets great store on the need for good design and the need to protect our cultural heritage.
27. The Council has no objection to the principle of development on the appeal site. Indeed the appeal site has been allocated for housing as part of the overall LP Policy NA2 allocation. It is important to note however, that LP Policy NA2 requires the preparation of a comprehensive landscape and design-led master-plan. The Whitehill, Newton Abbot (NA2) Development Framework Plan Supplementary Planning Document serves that purpose and must be adhered to for the requirements of LP Policies S2 and NA2 to be met.
28. It is important to note that there is no suggestion that the LP is not up-to-date and neither is there any suggestion that the Council cannot demonstrate a 5 year supply of deliverable housing sites. As a consequence, the proposal must be dealt with on the basis of the development plan, unless material considerations indicate otherwise.
29. The wording of LP Policy NA2 is plain. A comprehensive landscape and design led master-plan is essential for any scheme on the allocation site to go forward. That produced by the appellant does not accord with the requirements of LP Policy NA2.
30. In effect, the appellant has disregarded this policy requirement and tried to impose an unacceptable solution on the Council.

¹¹ Inquiry Document 19

31. In the final analysis, all the matters discussed at the Inquiry, design, adverse impacts, planning benefits, and so on, are matters of planning judgement. If the Secretary of State does not approve of just one element of the design, then the scheme can properly be seen as falling contrary to LP Policy S2, and thereby LP Policy NA2, and worthy of a refusal of planning permission. That is the conclusion the Council recommends.

The Case for the Appellant

32. The case for the appellant is fully set out in their closing statement to the Inquiry¹² and in the evidence of two witnesses who gave evidence on behalf of the appellant. The case can be summarised in the following way.
33. In simple terms, the appeal turns on whether the statutory presumption in favour of the proposal should be displaced by other material considerations?
34. The LP was advanced under the aegis of the Framework and was found sound, and subsequently adopted, in 2014. LP Policy NA2 provides an allocation that includes the appeal site but sits in a wider context of strategy and objectives which the plan promotes. It is imperative to understand that strategy when balancing benefits against harm in the ultimate decision.
35. LP Policy NA2 is detailed and includes a number of criteria which must be satisfied. These engage a whole suite of LP policies¹³. The only alleged conflict is with LP Policy S2. The appellant contests that there is such a conflict but even if the Council is correct, it matters not, because the scheme is in general conformity with the LP¹⁴. The first submission made by the appellant is that the proposals have the full support of the recently adopted LP. The proposal will bring forward, within 5 years, market, and policy compliant affordable, housing on an allocated site, in accordance with the LP. The statutory presumption in favour of the development points convincingly towards a grant of permission.
36. In terms of the harm that it is alleged the scheme would cause, the Council's case is incoherent. Whitehill House is the most straightforward to address. The setting of the house would be preserved and there is no suggestion that the designated heritage asset will be harmed. Moreover, the relationship of the house, and its gardens, to the housing allocation has already been discussed and found acceptable through the plan-making process.
37. The Parish Church of All Saints is clearly a designated heritage asset of the utmost importance but it has been recognised as such in the plan-making process, and in arriving at the proposals.
38. The LP was found sound and has been judged to have complied satisfactorily with (amongst other things) the SEA Directive. This requires the Plan to demonstrate that its allocations are superior to reasonable alternatives. The Secretary of State may therefore conclude that the scale of residential development permitted by the LP strikes the best compromise between meeting housing needs and protecting environmental assets, whether built, or natural.

¹² Inquiry Document 20

¹³ Summarised at paragraph 5.2.2 of the SoCG Inquiry Document 22

¹⁴ Agreed by Miss Crabtree in x-e

39. Any harm that may be found is therefore overridden by the need to provide housing in the most suitable location. This is clearly set out in paragraph 7.20 of the LP¹⁵. The need to strike that balance, which mirrors the requirement of paragraph 133 or 134 of the Framework has been considered by the Council in determining the application.
40. Notwithstanding the views of Historic England, and others, they rejected the suggestion that unacceptable harm would be caused to the setting and thereby the significance of the Parish Church of All Saints, in the light of the benefits that would be brought forward.
41. That is a perfectly sensible conclusion. Any harm to the significance of the Church would be marginal; its fabric would be unaffected and there would be clear separation retained between the Church and the development. On the other hand, the benefits of the proposal would be massive in particular when one properly appreciates the importance the LP attaches to Newton Abbot as the centre of growth for the District¹⁶. The Council agreed that it would be harmful to the public interest if allocations intended to underpin that growth failed to come forward¹⁷.
42. Church Path is a non-designated heritage asset and of a lower order of significance. Having regard to paragraph 135 of the Framework, even a severe impact upon it would not be sufficient to overturn the public benefits the scheme would bring forward.
43. However, the impact would not be severe. Housing would be built near to the boundary as expected by the LP Policy NA2 allocation. Paragraph 7.14 of the Whitehill, Newton Abbot (NA2) Development Framework Plan Supplementary Planning Document, highlighted by the Council, is derived from LP Policy NA2. The Council accepts that there is no conflict with LP Policy NA2 and it is difficult to see how the proposals can be in conflict with a subordinate document which simply seeks to elucidate the overarching policy.
44. In any event, paragraph 7.14 is expressed conditionally and refers to 'where practicable'. It is not prescriptive. This also provides the solution to the alleged conflict with LP Policy S2. The appeal proposals accord with that policy.
45. Interested persons suggested that the appeal site suffers from insuperable issues in terms of highways, ecology, flooding, heritage, and in terms of rights of way. All of these matters have been properly considered and can be addressed through the imposition of suitable conditions and/or through the completed Obligation under Section 106.
46. On that overall basis, the appeal should be allowed.

Interested Persons

47. A number of interested persons addressed the Inquiry. Many provided written transcripts of their speeches which I have attached as Inquiry documents so they can be read in full. I have, nevertheless, briefly summarised the submissions.

¹⁵ Core Document 1 Page 84

¹⁶ Core Document 1 LP Policy S14 treats it as the 'Heart of Teignbridge'

¹⁷ Miss Crabtree in x-e

48. **Christine Young** a local resident voiced objections to the proposals and in particular, its impact on the setting of the Parish Church of All Saints, underlining the reservations expressed by Historic England, and on flood risk, through an inadequate surface water drainage strategy¹⁸.
49. **Mark Young** a local resident while acknowledging the need for new homes, and affordable homes in particular, raised concerns about flooding as a result of increased run-off, and highway safety given the busy nature of Exeter Road, suggesting that the allocation of the site for housing needs to be rethought¹⁹.
50. **Richard Jenks** a local resident expressed concerns about the scheme in terms of its heritage impacts, effects on the biodiversity, archaeological implications, and potential difficulties in relation to highway safety, and drainage²⁰.
51. **David Jones** who lives in Whitehill House, called into question whether the appellant had properly considered the manner in which occupiers of Whitehill House would continue to gain unfettered access to the property across the appeal site. Moreover, the proposals would have unacceptable impacts on the settings of the Parish Church of All Saints, and Whitehill House²¹.
52. **Rosamund Paisey** who also lives in Whitehill House expressed similar concerns about the impact of the proposal on the setting of listed buildings, the difficulties it would create with access and in terms of traffic and highway safety, highlighting what she regards as the dangerous nature of Exeter Road where it passes the bottom of Church Walk, in particular²².
53. **Phil Bullivant** a District Councillor and the designated Heritage Champion accepted the requirement for new homes in the District but aired significant concerns about the scheme and its impact on the settings of listed buildings, and on the experience of Church Path.
54. **Jackie Brodie** a District Councillor set out the Council's healthy position in terms of housing land supply which underlines that the District is not resistant to the idea of meeting its housing, and in particular its affordable housing, needs. The proposal needs to be judged in that context and the Historic England objection should be given significant weight²³.
55. **Wendy Burt** a resident of Blenheim Close raised issues around visual impact given the proximity of some of the proposed new houses to existing residences. Moreover, the impact on the setting of the Church, and on the nature of Church Path was highlighted. Finally, concern was raised about the potential difficulties in terms of pedestrian access given traffic conditions on Exeter Road²⁴.
56. **Richard Smith** a resident of Highweek, and former Church Warden of All Saints, endorses the views expressed by Historic England and worries that the scheme will destroy wider views of the Church.

¹⁸ Inquiry Document 3

¹⁹ Inquiry Document 4

²⁰ Inquiry Document 5

²¹ Inquiry Document 6

²² Inquiry Document 7

²³ Inquiry Document 8

²⁴ Inquiry Document 9

57. **Peter Finch** Chair of the Teignbridge District of the CPRE supports the concerns expressed by Historic England about the unacceptable effect the proposal will have on the setting of the Parish Church of All Saints. On top of that, there are misgivings about whether the potential impact of the scheme on flyways used by Greater Horseshoe Bats has been properly assessed²⁵.
58. **Paul Evemy** a Committee member of the Wolborough Residents Association, in a very full submission, makes a number of points about the potential effect of the proposals on Greater Horseshoe Bats, and as a result the South Hams Special Area of Conservation²⁶, and whether the requirements of the Council's NA2 Whitehill, Newton Abbot Development Framework Plan²⁷ have properly been complied with²⁸.
59. Aside from those submissions made to the Inquiry, it is important to note that Historic England raised objections to the various iterations of the proposal²⁹ and indeed their objection has been continued in respect of the revised proposal currently awaiting a decision from the Council³⁰. In simple terms, Historic England, having opposed the original allocation, are concerned about the impact the proposal would have on the setting and thereby the significance of the Parish Church of All Saints. There is the suggestion that substantial harm to that significance would be caused.

Conditions and Obligations

60. A series of suggested conditions, arrived at by the main parties, were discussed at the Inquiry³¹ in the light of advice on the use of conditions in the Framework, and Planning Practice Guidance³². The standard commencement condition would be required along with the usual condition setting out the approved plans.
61. Given the scale of the development, it would be reasonable to apply a condition to govern its phasing. In order to ensure that they relate sensibly to the rest of the development, a condition requiring details of the self-build dwellings to be approved by the Council before their construction commences would be necessary. To ensure that the rest of the development attains reasonable standards, details of external materials ought to be submitted for approval. For similar reasons, a general landscaping condition, another to cover boundary treatments, and another to cover important design elements, would be required. A condition is required to ensure that car parking facilities for each dwelling are in place prior to occupation.
62. Open space, play equipment and their ongoing maintenance are important elements of the scheme. A condition would be required to cover their provision and ongoing maintenance arrangements. Similarly, a condition would be a necessity to ensure that surface water drainage is properly addressed.

²⁵ Inquiry Document 10

²⁶ Referred to hereafter as SAC

²⁷ Core Document 4

²⁸ Inquiry Document 11

²⁹ Their letters of objection dated 11 November 2014 and 24 November 2015 can be found attached to the Questionnaire

³⁰ Inquiry Document 12

³¹ Inquiry Document 16

³² Referred to hereafter as PPG

63. While it is unlikely that any will be encountered, it would be reasonable to apply a condition to deal with any unsuspected contamination of the land that might be encountered.
64. The necessity for the suggested condition to secure some public art as part of the development has been questioned. Given the nature of the site and its relationship with historic buildings and routes, I believe that the provision of some sort of interpretative material would benefit the proposal and aid in its assimilation. To that end, the condition suggested is reasonable. The site is sensitive in ecological terms and for that reason a condition to secure a Landscape and Ecology Implementation and Management Plan (LEMP) would be required to make the development acceptable. This can include bat and bird boxes which makes a separate condition for their provision superfluous. External lighting needs to be covered by condition for the sake of bats. For similar reasons, permitted development rights need to be restricted on some plots to prevent light spill from additional windows that might otherwise be installed.
65. Given the proximity of the site to existing dwellings, it would be correct to apply a condition requiring the approval of a Construction Environmental Management Plan. Aside from the various areas of coverage suggested, this needs to deal with access to Whitehill House during the construction phase. A separate condition requiring the provision of bat and bird boxes would not be necessary. This can be covered by the LEMP, if required. Given the obvious potential of the site, a condition would be necessary to deal with archaeology.
66. The condition suggested to secure a carbon reduction plan would not be necessary as this is a matter best left to the Building Regulations.
67. While the means by which access to Whitehill House is to be maintained during the construction phase can be dealt with through the Construction Environmental Management Plan, a condition is necessary to deal with the means by which this will be dealt with when the development is occupied. There are many ways in which the requirements of the occupiers of Whitehill House might be dealt with and in that context, the condition would be best expressed in an open manner so that a mutually acceptable solution can be arrived at.
68. The Obligation has been completed in the form of a Unilateral Undertaking under Section 106³³ which would come into force upon the grant of planning permission. I have considered it in the light of advice in the Framework and the statutory provisions of the Community Infrastructure Regulations 2010 (as amended)³⁴.
69. Schedule 2 sets out a series of financial contributions towards allotments, community facilities, ecology, employment, highways and sustainable travel. All it appears to me have a sound policy basis through the provisions of LP Policy NA2 and the Whitehill, Newton Abbot (NA2) Development Framework Plan Supplementary Planning Document³⁵. The Council has provided details of the derivation³⁶ and the ecological contribution is for off-site bat roosts which provide

³³ Inquiry Document 17 Referred to hereafter as UU

³⁴ Referred to hereafter as the CIL Regulations.

³⁵ Core Document 4

³⁶ Inquiry Document 18

some of the mitigation that is necessary for the development to proceed in accordance with the requirements of policy.

70. Schedule 3 deals with the provision of affordable housing and in broad terms, it seems to me that it does this in an acceptable, policy-compliant, manner. At the Inquiry, the Council raised concerns about the way that the affordable housing would be allocated³⁷ which does not accord it seems, with their usual approach. Having regard to the Council's Affordable Housing Supplementary Planning Document³⁸, I see nothing wrong in policy terms with the way that the appellant has approached the matter. However, if the Secretary of State is minded to accept my recommendation, but shares the Council's concern, then this may be a matter that warrants further contact with the parties.
71. Schedule 4 details the manner in which the self- build plots will be dealt with in what appears to me to be an acceptable manner having regard to the Council's Custom & Self Build Housing Supplementary Planning Document³⁹. The Council raises no concerns about the approach.
72. In that overall context, I am content that the provisions of the UU are necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. As such, they meet the tests set out in paragraph 204 of the Framework, and the requirements of the CIL Regulations.

Conclusions

73. Notwithstanding the reasons given for recovery, and the original reasons for refusal, the Council objects to the scheme on the basis of its impact on Church Path, an historic route that the Council has treated as a non-designated heritage asset. Others, including Historic England, have raised wider objections relating to the historic environment, and other issues too.
74. In that context, the main issues to be considered are (1) the effect of the proposals on the setting and thereby the significance of the Parish Church of All Saints, a Grade I listed building, Whitehill House, a Grade II listed building, and Church Path, a non-designated heritage asset; and (2) whether there are any other matters that weigh insuperably against the proposal. That analysis needs to take place in the context of the development plan, the Act, and the Framework.
75. The Parish Church of All Saints dates from the 15th Century and is a Grade I listed building⁴⁰. It occupies a prominent hill-top site and is widely visible as a local landmark. The prominent position the Church occupies in the landscape is an element of its overall setting that makes an important contribution to the overall significance of the designated heritage asset.
76. As the appellant accepts, there are some distant views of the Church that would also take in the development⁴¹. Moreover, the dwellings proposed would be visible from parts of the Churchyard.

³⁷ Paragraph 5 of Schedule 3 to the UU in particular

³⁸ Core Document 2

³⁹ Core Document 5

⁴⁰ The detailed list description is appended to the Questionnaire

⁴¹ Inquiry documents 13 and 23 give examples

77. There can be no doubt, therefore, that the proposal would have an impact on the setting of the Church, and, because it would involve some encroachment into its prominent hill-top setting, its significance. It is however, important to place this impact in its proper context. The appeal site is part of a wider tract of land allocated for development through LP Policy NA2. The allocation has been examined and gone through a process of comparison with other prospective sites. In that context, it appears to me axiomatic that some impact on the setting, and thereby the significance, of the Church must have been factored in when the allocation was found sound. There can be no in-principle objection to the development of the appeal site and the proper question to address is whether there is anything in the design of the scheme that makes the impact more harmful than it should be?
78. In my view there is not. The layout of the housing sets itself back from the field boundary that sets the western extension of the appeal site. This would allow for a reasonable degree of separation that would prevent undue competition with the prominence of the Church in affected longer views. It would also allow sufficient room from the boundary of the Churchyard to leave the existing sense of isolation largely undimmed. Moreover the layout of the housing proposed, which follows the contours, mimics to a degree the housing already visible in wider views of the Church. Being seen as part of a wider piece would minimise the extent to which the development would be seen as encroaching competitively on the hill-top location of the Church.
79. Nevertheless, there would be something of a harmful impact on the setting and thereby the significance of the Church but the harm to significance, bearing in mind clear advice in the PPG⁴² and the high bar set for a finding of substantial harm, would clearly be less than substantial.
80. Whitehill House dates from the early 19th Century and is a Grade II listed building⁴³. The tree-lined original driveway to the house⁴⁴ passes the original lodge⁴⁵ and crosses the appeal site. This driveway and the setting of the house in what appears to have been parkland around it, contribute to the overall significance of the designated heritage asset. The development would be readily visible on the approach to Whitehill House along the original driveway, and elements of it would be clearly visible from the house and its gardens.
81. There would, therefore, be an impact on the setting, and thereby the significance of Whitehill House but again, this impact must be seen in the context of the allocation of the appeal site for development as part of LP Policy NA2. Again, there can be no sustainable objection to the concept of development and the issue is whether there is something about the design of the scheme that makes it more harmful than it need be?
82. In my view, the opposite is the case. A reasonable degree of separation would be maintained between the house and the new housing around it. Most importantly, the tree-lined original driveway would be largely retained and the new housing would be well set back from it.

⁴² Inquiry Document 14

⁴³ The detailed list description is appended to the Questionnaire

⁴⁴ It is now subdivided into separate ownerships

⁴⁵ Whitehill Lodge

83. As such, its historic purpose would remain readily discernible. Having said that there would be something of a harmful impact on the setting and thereby the significance of Whitehill House but as with the Parish Church of All Saints, the harm to significance, bearing in mind clear advice in the PPG, would be less than substantial.
84. Cognisant of the workings of Section 66(1) of the Act, and paragraph 132 of the Framework, and as a result the considerable importance and weight to be attached to any harm to the setting and/or significance of a listed building on the negative side of the balance, and in particular a Grade I listed building, and on the other hand the importance attached by the LP to the LP Policy NA2 allocation, notwithstanding the seemingly healthy position of the District in terms of housing land supply, I am satisfied that the public benefits of bringing forward the housing proposed clearly outweigh the harm to the significance of the designated heritage assets that would be affected by it.
85. It is important to note that the Council has reached a similar conclusion. There would be no conflict with LP Policy EN5.
86. The effect of the proposal on Church Path raises slightly different questions. As an historic route connecting the Parish Church of All Saints with the Exeter Road and beyond, it clearly merits consideration as a non-designated heritage asset. It is the route itself that in my view contributes most to its significance. Nevertheless, it does draw some significance from its setting. In particular, views out from the route add something to the overall experience of it and as a result, contribute a little to its overall significance as a non-designated heritage asset.
87. Citing paragraph 7.14 of the Whitehill, Newton Abbot (NA2) Development Framework Plan Supplementary Planning Document⁴⁶ which sets out that: *Development must be set back from Church Path so as to help preserve the integrity and context of this important historic right of way leading to the Grade I listed All Saints Church*, the Council asserts that the housing proposed⁴⁷ would be too close to Church Path. Again though, this needs to be placed in its proper context because the LP Policy NA2 allocation means that the appearance of housing on the appeal site, which would obviously be visible from Church Path, is an expectation.
88. From what I saw, the southern end of Church Path is not immune from the influence of modern houses. The dwellings that form the northern extremity of Blenheim Close, and their prominent fences, are clearly visible, as is Whitehill Lodge. If the development went ahead as proposed, as one moved up Church Path towards the Church, housing would be readily apparent on the appeal site and the gable ends of the end houses in the rows would sit relatively close to the boundary of Church Path.
89. However, there would be what I regard as a reasonable set back of a minimum of 1.5 metres from the boundary⁴⁸, and relatively large gaps between the rows that would allow views out from Church Path into the heart of the appeal site.

⁴⁶ Core Document 4

⁴⁷ And in particular Plots 119, 128, 129, 137 and 162 – best seen on Drawing 1958-101 Revision F: Proposed Site Plan

⁴⁸ According to Drawing 1958-101 Revision F: Proposed Site Plan

90. Given that the appeal site has been allocated for housing, the experience of Church Path will change, and the sight of houses from it will be an inevitable consequence. In my judgement, the layout proposed would not bring housing unreasonably or uncomfortably close to Church Path and the significance of it as an historic route would be largely unaffected. The visible presence of housing, at the separation distances proposed, would not have an unduly harmful impact on the integrity and context of Church Path, its setting, or its significance.
91. On that basis, I see no departure from the requirements of paragraph 7.14 of the Whitehill, Newton Abbot (NA2) Development Framework Plan Supplementary Planning Document and nothing in the design that brings it into conflict with LP Policy S2 a) or k) or the approach of the Framework, in this regard. Having regard to paragraph 135 of the Framework, the benefits inherent in the scheme far outweigh any harm to the significance of Church Path.
92. In terms of the other matters raised, I am content that there would be sufficient separation between the new houses proposed and existing houses on Blenheim Close to prevent any dominant or overbearing visual impact. I can understand concerns about surface water drainage but there seems to me to be no good reason why a scheme could not be arrived at that dealt with this matter in a way that did not impact on existing residents. Indeed, it is possible that with careful design, improvements could be secured.
93. In a similar way, I can appreciate concerns about the way traffic and pedestrians interact on Exeter Road but there seems to me that with sensible behaviour on both sides, there is nothing inherently dangerous about it. The pedestrian and vehicular accesses to the site proposed are perfectly acceptable, on my analysis. Provision has been made by condition and through the Obligation to ensure that there would be no significant impact on Greater Horseshoe Bats or the South Hams SAC as a result of the proposals and the Council readily accepts that. A sensible relationship between existing occupiers of Whitehill House and the Estate, in terms of access, can be secured through condition, as can any archaeological significance of the site.
94. There is no conflict with the Neighbourhood Plan and I agree with the main parties⁴⁹ that the WMS of 12 December 2016 is not relevant to the determination of the appeal.

Recommendation

95. Bringing all those points together, I recommend that the appeal be allowed and planning permission be granted subject to the conditions set out in Annex C.

Paul Griffiths
INSPECTOR

⁴⁹ Inquiry Document 24

Annex A: APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Martin Edwards of Counsel
He called

Miss Donna Crabtree	Senior Planning Officer, Teignbridge DC
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Miss Naomi Archer	Conservation Officer, Teignbridge DC
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Ms Susan Mauger	Council Solicitor ⁵⁰
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FOR THE APPELLANT:

Anthony Creane QC
He called

Mr Stephen Bond	Heritage Places
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Mr Ian Jewson	Ian Jewson Planning
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INTERESTED PERSONS:

Christine Young	Local Resident
Mark Young	Local Resident
Richard Jenks	Local Resident
David Jones	Local Resident
Rosamund Paisey	Local Resident
Phil Bullivant	District Councillor and Heritage Champion
Jackie Brodie	District Councillor
Wendy Burt	Local Resident
Richard Smith	Local Resident
Peter Finch	Chair of the Teignbridge District of Devon CPRE
Paul Every	Wolborough Residents' Association

⁵⁰ Took part in the discussion about the UU

Annex B: DOCUMENTS

Core Documents

1. Teignbridge Local Plan 2013-2033
2. Affordable Housing Supplementary Planning Document
3. Trees and Development Supplementary Planning Document
4. Whitehill, Newton Abbot (NA2) Development Framework Plan Supplementary Planning Document
5. Custom & Self Build Housing Supplementary Planning Document
6. Technical Note for Development Framework Plans for Masterplanning the Strategic Site Allocations
7. Newton Abbot Neighbourhood Plan
8. Various Application Documents
9. Bat Mitigation Plan

Inquiry Documents

1. Council's Letters of Notification
2. Council's Opening Statement
3. Submission of Christine Young
4. Submission of Mark Young
5. Submission of Richard Jenks
6. Submission of David Jones
7. Submission of Rosamund Paisey
8. Submission of Jackie Brodie
9. Submission of Wendy Burt
10. Submission of Peter Finch
11. Submission of Paul Every
12. HE Letter (undated) on application currently before Council
13. Four views of Parish Church of All Saints put in by Mr Bond
14. Extract from PPG on amongst other things, substantial harm
15. E-mail containing TDC comments on natural surveillance
16. Suggested conditions
17. Completed Obligation under Section 106
18. Justification for calculated sums in Obligation under Section 106
19. Council's Closing Statement
20. Appellant's Closing Statement
21. Appellant's Application for Costs
22. Statement of Common Ground
23. Wider viewpoints of the site and the Parish Church of All Saints suggested by the Council
24. Post-event correspondence about the WMS of 12 December 2016

Annex C: Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1958-100 Revision B: Site Location Plan; 1959 104 Revision B: House Type A20; 1959 105 Revision B: House Type A22; 1958-107 Revision B: House Type A32; 1958-108 Revision B: Unit Plan Flats Block; 1958-109 Revision B: House Type H405; 1958-110 Revision B: House Type H307; 1958-111 Revision B: House Type H303; 1958-112 Revision B: House Type H302; 1958-113 Revision B: House Type H404; 1958-114 Revision B: Unit Plan – L1; 1958-116 Revision B: Unit Plan L10; 1958-117 Revision B: Unit Plan L3; 1958-118 Revision B: Unit Plan L3A; 1959-124 Revision B: House Type LHSW VAR1; 1958-125 Revision B: House Type LHSW VAR10; 1959-126 Revision B: House Type LHSW VAR11; 1959-127 Revision B: House Type LHSW VAR9; 1958-128 Revision B: House Type LHSW VAR28; 1959-130 Revision B: House Type LHSW VARL; 1958-131 Revision B: Unit Plan Inv FOG HER; 1958-133 Revision C: Elevation Allocations Plan; 1958 134 Revision B: Tree Planting Plan; 1958 136 Revision B: Management Plan; 1958-137A Revision B: Boundary Treatments; 1958-138 Revision A: External Works Details; 1958-139 Revision A: Street Section; 1958-140 Revision A: Typical Street Sections; 1958-143 Revision A: Unit Type – Type J; 1958-144 Revision A: Unit Type HT 204; 1958-145 Revision A: Unit Type HT 304; 1958-146 Revision A: Unit Type HT 402; 1958-147 Revision B: Unit Type A 34; 1958-148 Revision B: Unit Type A 40; 1958-149 Revision A: Unit Type TYPE 15; 1958-150 Revision A: Unit Types – Type H; 1958-151 Revision A: Unit Type HT 203; 1958-152 Revision A: Unit Type HT 405.A; PHL/01 Rev.E: Preliminary Site Access Junction Layout; PDL/100 Rev.D: Preliminary Drainage Layout; PHL/201 Rev.C: Preliminary Levels Plan (Sheet 1); PHL/202 Rev.C: Preliminary Levels Plan (Sheet 2); PHL/301 Rev.B: Preliminary Highway Profiles (Sheet 1); PHL/302 Rev.B: Preliminary Highway Profiles (Sheet 2); PHL/303 Rev.B: Preliminary Highway Profiles (Sheet 3); PHL/304 Rev.B: Preliminary Highway Profiles (Sheet 4); PHL/305 Rev.B: Preliminary Highway Profiles (Sheet 5); 1958-101 Revision F: Proposed Site Plan; 1958-102 Revision E: Site Section A-A & B-B; 1958-103 Revision D: Site Section C-C & D-D; 1958-119 Revision C: Unit Plan – L4; 1959-120 Revision C: Unit Plan L4A; 1958-129 Revision C: House Type LHSW VAR C; 1958-132 Revision D: Street Elevations as Proposed; AL (0) 08 Rev.A: Application Site; PHL/211 Rev.A: Preliminary S38 Plan; AL (0) 20-1 Rev.C: Flat Block 1 Plans Drawing 1 of 4; AL (0) 20-3 Rev.D: Flat Block 1 Elevations 1 Drawing 3 of 4; AL (0) 20-4 Rev.D: Flat Block 1 Elevations 2 Drawing 4 of 4; AL (0) 27-3 Rev.C: Flat Block 2 Elevations 1 Drawing 3 of 4; AL (0) 28-1 Rev.B: Flat Block 3 Plans Drawing 1 of 2; AL (0) 28-2 Rev.C: Flat Block 3 Elevations Drawing 2 of 2; AL (0) 32: Typical Detached Garage Design; AL (0) 10-2 Rev.C: House Type L1 Elevations Drawing 2 of 4; AL (0) 11-1 Rev.B: House Type L2 Plans Drawing 1 of 2; AL (0) 14-1 Rev.A: House Type L4 Plans Drawing 1 of 2; AL (0) 14-2 Rev.C: House Type L4 Elevations Drawing 2 of 2; AL (0) 17-1 Rev.C: House Type L6 Plans Drawing 1 of 2; AL (0) 17-3 Rev.B: House Type L6 Elevations Drawing 2 of 2; AL (0) 18-1 Rev.B: House Type L7 Plans Drawing 1 of 2; AL (0) 18-3 Rev.A: House Type L7 Elevations Drawing 3 of 3; AL (0) 21-2

Rev.C: House Type L10 Elevations Drawing 2 of 4; AL (0) 26-1 Rev.A: House Type L15 Plans Drawing 1 of 1; AL (0) 29-1 Rev.A: House Type L16 Drawing 1 of 2; AL (0) 29-2 Rev.C: House Type L16 Elevations Drawing 2 of 3; AL (0) 29-3 Rev.B: House Type L16 Elevations Drawing 3 of 3; 9451: Entrance Area: POS Proposals; 9454: Entrance Area: POS Proposals (Detail); 9452: Play Area; 13.105.1.TCP: Tree Constraints Plan (North – Plan 1 of 2); 13.105.1.TCP: Tree Constraints Plan (South – Plan 2 of 2); and 13.105.1.TCP.rep: BS5837:2012 Tree Survey and Tree Constraints Plan.

- 3) No development shall commence until details of the phasing of the development have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) No self-build dwelling shall commence until details of its location, scale, and external appearance have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 5) No development of any dwelling in any phase above DPC level shall take place until details and samples of the materials to be used in the construction of the external surfaces of the dwellings, and in the associated hard landscaping, in that phase, have been submitted to and approved in writing by the local planning authority. Development of the relevant phase shall be carried out in accordance with the approved details.
- 6) No development shall take place in any phase until details of hard and soft landscaping works in that phase have been submitted to and approved in writing by the local planning authority. Development of the relevant phase shall be carried out in accordance with the approved details.
- 7) No development of any dwelling in any phase above DPC level shall take place until details of all means of enclosure and boundary treatments, including buffers to existing and new hedging, for that phase have been submitted to and approved in writing by the local planning authority. Development of the relevant phase shall be carried out in accordance with the approved details.
- 8) No development of any dwelling in any phase above DPC level shall take place until details of (a) porch canopies; (b) doors, windows, garage doors, and associated reveals, sills and lintels; (c) ducts, flues and vents; (d) rainwater goods; (e) meter boxes; and (f) areas for storage of refuse and recycling bins and the kerbside collection point; relating to the dwellings in that phase have been submitted to and approved in writing by the local planning authority. Development of the relevant phase shall be carried out in accordance with the approved details.
- 9) Prior to the occupation of any particular dwelling, the car parking provision associated with it shall have been completed in accordance with the approved plans. The area shall be retained thereafter for its intended purpose.
- 10) No dwelling shall be occupied until details of the provision of open space and play equipment, including a timetable, and their ongoing maintenance, shall have been submitted to and approved in writing by the local planning

- authority. Development shall be carried out and operated thereafter in accordance with the approved details.
- 11) No development shall take place in any phase until details of the surface water drainage system and the implementation (including a timetable), maintenance and management of the sustainable drainage scheme relating to that phase have been submitted to and approved in writing by the local planning authority. Development shall be carried out and operated thereafter in accordance with the approved details.
 - 12) If, during development of any phase, contamination not previously identified is found to be present at the site, then no further development of that phase shall be carried out until an investigation strategy and risk assessment and, where necessary, a remediation strategy and verification plan detailing how this unsuspected contamination will be dealt with has been submitted to and approved in writing by the local planning authority. No part of that phase shall be occupied until measured identified in the approved remediation strategy and verification plan have been completed and a verification report demonstrating completion of the approved remediation works and the effectiveness of the remediation has been submitted to and approved in writing by the local planning authority.
 - 13) No dwelling shall be occupied until details of a piece of public art to form part of the development, including a timetable for its provision, have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
 - 14) No development shall take place in any phase until a Landscape and Ecology Implementation and Management Plan (LEMP) for that phase has been submitted to and approved in writing by the local planning authority. The LEMP shall include the necessary bat mitigation measures, a timetable for the implementation of all the landscaping and ecology work, and details of the management regime. The LEMP shall be implemented and subsequently operated in accordance with the approved details.
 - 15) No external lighting shall be installed in any phase of the development until details have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and retained as such thereafter.
 - 16) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and re-enacting that Order with or without modification), no windows shall be installed in the elevations facing onto Whitehill Road on Plots 1, 27, 28 and 37, other than those expressly authorised by this grant of permission.
 - 17) No development shall take place in any phase until a Construction Environmental Management Plan (CEMP) relating to that phase has been submitted to and approved in writing by the local planning authority. Each CEMP shall include details of site layout and access, including the means by which access to Whitehill House is to be maintained while site works are taking place; haulage routes; site equipment; wheel-washing facilities; the location of the water supply for damping-down; inventory and timetable of all dust-generating activities; list of dust and emission control methods to be used; identification of an authorised responsible person on site for air

quality; summary of monitoring protocols and an agreed procedure for notification to the local authority; a site log book to record details and action taken in response to incidences of the air quality objectives being exceeded and any exceptional incidents; and proposed hours of working (including construction, deliveries, and other traffic movements to and from the site). All vehicles leaving the site must be wheel-washed if there is any risk of an effect on nearby roads and properties and a paved area between the wheel-wash facility and the highway shall be provided.

- 18) No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation first submitted to and approved by the local planning authority.
- 19) No dwelling shall be occupied until details of the means by which access to Whitehill House is to be provided and maintained once the development is occupied have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and retained as such thereafter.



RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial Review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

The decision may be challenged by making an application for permission to the High Court under section 288 of the Town and Country Planning Act 1990 (the TCP Act).

Challenges under Section 288 of the TCP Act

With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the day after the date of the decision.

SECTION 2: ENFORCEMENT APPEALS

Challenges under Section 289 of the TCP Act

Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

SECTION 4: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the Inspector's report of the inquiry or hearing within 6 weeks of the day after the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.