

Matters and Issues 1. Is the evidence base sufficiently robust to demonstrate a need for the scale of the tourist attraction proposed?

1. There is no evidence demonstrating a need for a tourist attraction of the scale proposed. On Page 27 of the Local Plan Review 2013 - 2033 it states that the J27 development "*will be targeted to provide a high quality tourist and leisure focused development to meet needs identified within the tourism study*". The tourism study is the 'Mid Devon Tourism Study', November 2014, by GL Hearn Limited. The tourism study does not identify any need for a large tourist attraction. It states at para 6.6 that "*The market towns should be key outlets for selling locally-sourced food and craft products and have a range of interesting 'things to do' for people of all ages*" and at para 6.12 with regard to a major tourist facility it states that "*there **could** be opportunity for the development of new tourism infrastructure or facilities to increase visitor numbers and spend*" [emphasis added]. It also states at para 6.13 that "*A major facility or attraction would also be likely provide a number of associated services, such as a visitor attraction or activity, retail space, accommodation and café/restaurant floorspace; with a critical mass of 'things to do or stop for' being important in attracting visitors and maximising economic benefit. The precise nature of the facility is difficult to precisely predict, and any proposal would need to be supported by bespoke market research*". No such market research has been performed. Thus there is no evidence on the scale of the proposed tourist attraction.
2. It is noted that a previous proposal for a larger development scheme (91ha) at J27 also did not demonstrate a need for the scale of tourism development proposed (Colliers International Report, Westwood Devon. Impact Assessment. July 2014).

Matters and Issues 2. Has a regional need for the retail element and the comparison goods floor-space in particular, been demonstrated?

1. A report by GVA, ' Assessment of Retail & Main Town Centre Use. Planning Policy: Proposed Mixed Use Development at 'Westwood', near Tiverton', dated November 2014, made no mention of a regional need for either the retail element or for the comparison goods floor-space for the previous 91ha proposal.
2. The evidence concerning the retail element of the current proposal is discussed in three sequential reports by NLP, 'Eden Westwood Proposal. Critique of Retail and Leisure Statement', dated 17 July 2015 and two subsequent reports dated 7 March 2016 and 19 July 2016. The main report made no mention of any regional need for either the retail element or the comparison goods floor-space. The first addendum showed that neighbouring councils could meet their own needs for retail element and the comparison goods floor-space and thus there is no regional need. The second addendum added nothing further.
3. It is concluded that it has not been demonstrated that there is a regional need for the retail element and the comparison goods floor-space.

Matters and Issues 3. Has the 'sequential test' been approached with sufficient rigour?

1. Section 2 of the NPPF 'Ensuring the vitality of town centres' provides the requirements of the sequential test.
2. Para 23 of the NPPF states that local authorities should "*allocate a range of suitable sites to meet the scale and type of retail, leisure, commercial, office, tourism, cultural, community and residential development needed in town centres*" and that they should "*allocate appropriate edge of centre sites for main town centre uses that are well connected to the town centre where suitable and viable town centre sites are not available. If sufficient edge of centre sites cannot be identified, set policies for meeting the identified needs in other accessible locations that are well connected to the town centre*".
3. Para 24 states that local planning authorities "*should require applications for main town centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre*".
4. It is clear from paras 23 and 24 that the sequential test is only used if a need has been identified for the scale of the proposed retail and leisure development.
5. The report by NLP, 'Eden Westwood Proposal. Critique of Retail and Leisure Statement', dated 17 July 2015 attempted to identify whether there was a need for each of the elements of the proposal. It concluded that there was a need for the tourism, hotel, leisure and convenience goods retailing (farmers market/food hall/fishmonger - the foodhall) but that there was no need for the comparison goods retailing (Designer Outlet Village).
6. We disagree with the first four conclusions as follows:
Tourism: The conclusion was "*A need could therefore be said to have been established*". No such need was in fact established, The tourist industry in Mid Devon is based on rural activities and the peace and quiet of the countryside and

in the southwest it is based on the countryside and the coast. No need was established for a tourist attraction based on an artificial concept which is alien to the established tourist industry.

Hotel: The need for new hotels was not in fact identified as a need, but as an *"opportunity to encourage visitors travelling through the area to stop"*.

Leisure: It was stated that *"there is around a £14m gap p.a. in turnover derived from restaurants in Tiverton and Cullompton compared to the national average"*.

This was falsely made into the conclusion that *"we consider that a need can be demonstrated"*.

Convenience goods: There are many farmers markets, town markets and farm outlets in Mid Devon and the conclusion that *"we consider there is a need for the proposed Foodhall"* is false and is not based on any evidence.

7. Given that there is no need for the proposal, then the NPPF does not require a sequential test to be performed.
8. Nevertheless, the J27 site for fails the sequential test in that it is not well connected to any town centre.

Matters and Issues 4. Has the analysis of the potential impacts of the retail element (2 and 3 above) of the proposal properly fulfilled the duty to co-operate?

1. The NPPF sets out at para 156 that local planning authorities should include strategic priorities to deliver "*retail, leisure and commercial development*". Paras 178 to 181 specify how "*local planning authorities should work collaboratively with other bodies to ensure that strategic priorities across local boundaries are properly co-ordinated and clearly reflected in individual Local Plans*".
2. The 'Duty to Cooperate Statement' of Mid Devon District Council, dated March 2017, addresses the impact of J27 in the section headed '*Economy, Retail and Leisure*' and reports on meeting with certain neighbouring local authorities. Despite the fact that it had been identified that there was no need for the retail element of the proposal (Designer Outlet Village) and despite the fact that "*Exeter City Council, Taunton Deane Borough Council and North Devon District Council have continued to raise objections through the local plan process*", Mid Devon District Council has proceeded with the retail element of J27.
3. It is clear that Mid Devon District Council has not met the requirements of NPPF para 181 and presented "*evidence of having effectively cooperated to plan for issues with cross-boundary impacts by way of plans or policies prepared as part of a joint committee, a memorandum of understanding or a jointly prepared strategy which is presented as evidence of an agreed position*".

Matters and Issues 5. Is there a 'clear synergy' between the Outlet Shopping Village (OSV) proposal and the tourism and leisure elements of the proposed allocation?

1. No evidence has been provided in any of the supporting documents to show any synergy between the OSV (also called the DOV) and the tourism and leisure elements of the proposal.
2. It is clear that the OSV is required to cross-subsidise the tourism and leisure elements. This is the reason it is claimed that "*It is not considered viable to disaggregate this proposed allocation given the nature and interdependency of the uses*". The fact that, as stated for Matters and Issues 2, no need has been identified for the OSV, its sole purpose is for cross-subsidy.
3. It is our experience that, once planning permission has been granted, the developer suddenly discovers that parts of the proposal are unviable and have to be dropped in favour of expanding the viable parts.

Matters and Issues 6. If there is a need for the scale of tourist and leisure elements proposed, why is the OSV necessary?

1. As we state at Matters and Issues 1, there is no need for the scale of tourist element proposed. No evidence has been provided on the need for the scale of the leisure element proposed.
2. As stated at Matters and Issues 5, there is no need for the OSV. Its sole purpose is to cross-subsidise the tourist and leisure elements proposed, which are therefore not viable.

Matters and Issues 7. If the OSV is necessary to enable or make viable the tourist and leisure elements of the proposal, where is the evidence that an OSV (or retail allocation) of the scale proposed, with its attendant effects, is necessary?

1. It is clear that the OSV is only necessary to cross-subsidise the tourist and leisure elements of the proposal and make them viable. As stated in NLP, 'Eden Westwood Proposal. Critique of Retail and Leisure Statement', dated 7 March 2016, "*EW suggests that the Designer Outlet Village is inextricably linked to the Westwood Ark proposal, because it cross-subsidises the financing of the Ark. In effect the DOV is proposed as enabling development that will make the tourist attraction deliverable and viable*".
2. It is stated in NLP, 'Eden Westwood Proposal. Critique of Retail and Leisure Statement', dated 17 July 2016 that "*Whether the Outlet Village could be reduced in size and still prove sufficient financial subsidy for the rest of the EW project would require a more forensic review of the figures, however, it should be noted that there would be a minimum size of critical mass required to make the Designer Outlet Village a viable proposition in its own right*".
3. Clearly there is no evidence on the scale of an OSV necessary to make the tourist and leisure elements of the proposal viable.

Matters and Issues 8. Can existing town centre uses be properly protected through 'planning controls'?

1. It is our experience in Devon that local planning authorities are weak when it comes to enforcing planning controls; they do not stand up to powerful developers. The general public has no faith in the use of planning controls.

Matters and Issues 9. Is the approach to the SAC sufficient and linked to that, what account is taken of the Priority Habitats that form part of the proposed allocation?

1. We consider that the impact of the proposal on the Culm Grasslands SAC, which is bisected by the A361, near Rackenford in North Devon, has been sufficiently and adequately addressed in the report 'Mid Devon Local Plan - J27 Proposals. Habitats Regulation Assessment: Appropriate Assessment Report', dated December 2016. We agree with the conclusion in that report that the proposal will not have an adverse effect on the integrity of the Culm Grasslands SAC.
2. The Priority Habitats are shown on the 'Publication Stage Policies Map (Submission) Junction 27'. Comparison with the map given in the 'Phase 1 Habitat Survey', June 2014 shows that the Priority Habitats are broadleaved woodland, described as "*Unconfirmed Wildlife Sites*".
3. Para 117 of the NPPF state that "*planning policies should: promote the preservation, restoration and re-creation of priority habitats*".
4. Section 5.9 of the report 'Strategic Site Options, Mid Devon. Landscape and Visual Appraisal', September 2014 covers the larger commercial area in a previous proposal. It states "*This site covers a large area and features a variety of habitat types, including Biodiversity Action Plan habitats. The many mature trees found throughout are massively important for biodiversity and the hedgerows act as wildlife corridors. The hedgerows and woodlands / copses add to the structural diversity and wildlife potential of the site. If the site is developed upon it is recommended that the hedgerows and woodlands are retained where possible*".
5. Natural England state in the 'Biodiversity 2020; Frequently Asked Questions (July 2013)' that, under Outcomes 1 and 2 (Priority Habitats), Biodiversity 2020 sets out to achieve "*Better wildlife habitats with 90% of priority habitats in favourable or recovering condition*" and "*More, bigger and less fragmented areas for wildlife, with no net loss of priority habitat and an increase in the overall extent of priority habitats by at least 200,000 ha*".

6. The proposal provides no information concerning how the Priority Habitats will be preserved or improved. There is no information concerning preservation of the hedgerows and mature trees.
7. We conclude that no account has been taken of the Priority Habitats.

Matters and Issues 10. Does the evidence base lead to a conclusion that the impact on M5 Junction 27 can be properly managed?

1. No. It is claimed that "*The site is adjacent to one of the larger M5 motorway junctions south of Bristol which can readily be improved to accommodate the proposal*". No evidence has been provided in support of the claim that it can be readily improved. The stretch of the M5 in Mid Devon is often at full capacity and J27 is often grid locked, making access to the Tiverton Parkway railway station very difficult. It is not obvious how the junction can be improved without causing massive disruption to users of the M5, the A361 and the A38.

Matters and Issues 11. Does provision need to be made for compensatory flood plain?

1. The proposed land is of 71ha of mostly arable and grassland, currently farmed for the production of food. At present drainage is by natural means of percolation through soil into sub aquifers leading to Spratford Stream to the east and the River Culm to the west. There has not been flooding on this land within living memory.
2. The proposal is for 28ha of floor space for retail and leisure outlets. Of the remaining 43ha of access roads, parking and infrastructure/landscaping, a conservative estimate is that a further 28ha of that land would be required for the access roads, parking and infrastructure. Thus a total of about 56ha of land will be covered with impermeable materials. 25 mm/h of rainfall is commonplace in this part of Devon. A hectare is 10,000m² and thus 25mm/h of rainfall would result in 14,000,000 l/h (14,000m³/h) of water falling onto non-permeable surfaces.
3. All this water will flow into the two watercourses which lead to Cullompton and its flood plain. It is planned that 2,000 houses should be built in and immediately surrounding Cullompton on and adjacent to this flood plain.
4. It is clearly essential that provision should be made to mitigate this amount of excess flow and prevent or reduce downstream flooding. One or more suitably sized compensatory flood plains would be necessary in order to provide a solution.

Matters and Issues 12. If a site in Sampford Peverell is necessary for additional housing need resulting from the Policy J27 allocation, is this site the best performing?

1. The site in Sampford Peverell is small and is for some 60 dwellings on a greenfield site. The village has an easy access to the motorway via J27 but access to the nearest town is difficult and requires residents to either use the busy Junction 27 and the A361 or the restricted road through Halberton and past Blundell's School.
2. It has been stated that the Junction 27 complex would employ some 1,000 employees; the Sampford Peverell scheme would house a tiny proportion of that number.
3. The site is clearly not best performing.

Matters and Issues 13. Does the proposed allocation have sufficient regard to the historic environment?

1. The proposed site historically is of grazed and arable farm land. There are some areas where there have been medieval settlements.
2. The proposed site is immediately adjacent to grade 2 listed houses at Church End which would be overlooked.
3. The proposed allocation does not have sufficient regard to the historic environment.

Matters and Issues 14. Does the proposed allocation have sufficient regard to the character and appearance of the area?

1. Sampford Peverell has an area of older houses at Church End built around the church and the Grand Western Canal running through it creating a pleasant village environment.
2. The proposed site is higher than much of the village and would be very visible.
3. The proposed site being higher and on a hill side would be visible from not only from the village but far reaching views to the west and south overlooking the Grand Western Canal.
4. The proposed allocation does not have sufficient regard to the character and appearance of the area.

Matters and Issues 15. Is the proposed allocation properly accessible, for pedestrians in particular?

1. Access from Sampford Peverell by car is to J27 on the M5. Access to the nearest town of Tiverton is either via J27 and A361 or back from Tiverton to J27 and to Sampford Peverell. J27 is already frequently very busy and congested. The other access to Tiverton is along a narrow road through Halberton, where there are traffic restrictions, and through the grounds of Blundell's School.
2. Access for pedestrians to the proposed J27 development is some considerable distance and hazardous across J27 and a busy mainline railway line also needs to be crossed. Footbridges across the motorway and railway line are essential.

Matters and Issues 16. Is the tie to Policy J27 strong enough?

1. The proposed dwellings in Sampford Peverell are not tied houses and the inhabitants of those houses cannot be obliged to work at the proposed J27 development, so therefore there cannot be any tie.
2. 3,100 homes are planned in a major expansion of Cullompton. A further 2,000 homes are planned for Tiverton and 296 homes in Willand. On top of this a Garden Village of 5,000 homes is envisaged for East of Cullompton.
3. The proposal for Sampford Peverell can only be seen as part of the massive and overwhelming expansion of homes in the eastern part of Mid Devon and have no ties with Policy J27.
4. Most of the employees at J27 development would be low paid and unlikely to be able to afford to buy homes.