

Annex 1

1. **Page 134:** The Council says the Higher Town site was considered in the 2014 options consultation and: "*the site received more support than the other sites in Sampford Peverell. The Parish Council was consulted at that time and took the opportunity to respond: "Members of Sampford Peverell Parish Council are of the opinion that the Higher Town site is the best situated of those offered in terms of access for limited development".*". With the feeling that straws are being clutched this phrase is repeated in the Council's response on pages 137, 139 and 140. However the fact is that the Parish Council [71] has made clear its objection to this allocation. It is for the Parish Council to explain any perceived contradiction that there might be between its alleged respective responses.
2. Notwithstanding the above, if the Council seeks to argue that support and/or opposition is a material consideration that the decision maker should take into account in reaching a view as to whether SP2 should be allocated then it is material to analyse the responses submitted as part of the consultation undertaken in 2017. My analysis suggests there were 116 representations in respect of SP2, 111 of which were objections. Of the remainder one [6207, Woodland Trust] welcomed "*the protection of hedgerows*", but I have estimated on page 9 of my original submission that up to 100 m of ancient hedgerow would need to be removed¹ and given this rationale is flawed I suggest it would be appropriate to attach this response very limited weight. Two local residents [6346 and 6386] support the principle of 60 houses in the village, but express no view on whether this is the most appropriate site.
3. The 2 submissions in support are from the landowners and prospective developers [6790, 4654], respectively. The landowners are represented by Philip Kerr who was a member of the SHLAA Panel that considered the site to have a yield of 108 to 180 dwellings². This is reflected in his representations, which refer to 108 dwellings.
4. The submission for the prospective developers was made by Neal Jillings³ for "*Richard and Lucy Persey*"⁴. The participants for the Hearing are now identified to be "*Mr Persey (Place Land LLP)*". When I search the Council's "*Policy Comments Search Application*"⁵ for "*Place Land LLP*" it says: "*The value 'place land llp' is not valid for myid*". In other words it is not recognised. This necessarily means that there must have been other correspondence between Mr Persey and/or his representative and the Council, which is not in the public domain.
5. Given the complaints made by others about the manner in which the Council made this allocation⁶, which coincides almost exactly with the date, 20 September 2016, on which the company was incorporated [Appendix 1] this lack of transparency can only add to this concern. Moreover it should be noted that

¹ The 2013 SHLAA report agreed that: "Removal of substantial lengths of hedgerow would be likely, to achieve safe access"; see https://www.middevon.gov.uk/media/85190/shlaa_site_appraisals_2013_-_east_area.pdf

² See page 132 of the 2013 SHLAA report.

³ In his capacity as a Director of Jillings Heynes Planning Ltd.

⁴ Otherwise listed in the Council's database as Messers Persey C/O Jillings Heynes Planning Ltd.

⁵ <https://representations.middevon.gov.uk/>

⁶ It was considered at the Cabinet meeting on 15 September 2016 when Mr Saunders [6336] said: "Members should be sure that it [SP2] has not been selected for opportunistic impropriety" and then the Full Council meeting on 22 September 2016.

Mr Jillings and Mr Heynes, of Jillings Heynes Planning Ltd, are both officers of the newly incorporated company.

6. Notwithstanding the above I agree with much of what Mr Jillings says in his letter. The summary says: "*We do not consider that the process by which it [SP2] has been allocated is sufficiently transparent and fails the relevant test of soundness*". One option he canvasses is the need to assess a site at Uffculme, which has planning permission for 60 dwellings, "*instead of*" SP2. That chimes with what I said on page 18 of my submission. Given that Mr Jillings now has a vested interest in the company that has recently conducted a "*Community Consultation*" for a scheme of 90 houses on the SP2 site, it will be interesting to see whether he changes his position that the process by which SP2 was allocated is unsound. I attach a copy of the consultations and my reply at Appendix 2⁷.
7. One final point to make arising from the consultation responses is that of those who expressed a clear view about alternative sites, the majority expressed support for the site at Mountain Oak Farm⁸. It follows that if the Council is correct, and support is a material consideration for the decision maker, that site is clearly preferred.
8. **Page 136**: The Council says: "*...it was considered logical to include proximity to the proposed commercial allocation at J27 as a relevant consideration*". Without prejudice to the submissions made by other representors, including 4654 and 6685, that there are other reasonable alternatives, I do not disagree with the Council that this is a relevant consideration. However the fact is that all of the other sites in Sampford Peverell perform better than the allocated site on this measure. In particular the site at Mountain Oak Farm is within walking distance of Tiverton Parkway Railway Station and, assuming a pedestrian link is built over the M5, the proposed commercial allocation at J27. In contrast the proposed allocation is approximately twice that distance⁹, part of which is uphill and along Turnpike where there is no continuous footway. Moreover proximity as a "*selection criteria*" is not explicitly evident in the SA.
9. **Page 140**: The Council says of Mountain Oak Farm: "*...there is very little development in the vicinity of the site, as such there is greater potential for landscape and visual impact. The smaller site would also have similar impacts as the site assessed as part of the Sustainability Appraisal with regard to its poor spatial relationship with the village being divorced from the main built extent of Sampford Peverell.*" I disagree because the land would be screened from the road by existing development¹⁰ along its frontage and its elevation would not make it so conspicuous in the wider landscape; it is at the lowest point in the

⁷ The bundle includes my email of 6 August 2017, following an incident in which a drone was observed photographing my property from just above my cedar tree on a day when a teenage girl was present in my property all day and girls aged 10 and 6 were playing in the garden in the afternoon. At the present time I am awaiting a response from Mr Cook, at the company concerned, before considering whether to refer the matter to the relevant authorities. When we were at a wedding on 10 August 2017 a second consultation leaflet was delivered, a copy of which is also included. The Inspector will note that the developer says it has submitted a planning application for 84 new homes on the site, well in excess of the 60 proposed in the policy and unrelated to the Junction 27 development. The developer plainly has no respect for the Inspector's judgement and intends to lodge an appeal against any refusal based on a 5-year housing land supply argument. In my view this makes it all the more important that the Inspector explains not only why the allocation is unsound, but also sets out clearly and precisely why this is the wrong site for any future housing in the village.

⁸ See rep Nos: 3754, 4830, 5251, 6254, 6264, 6265, 6282, 6298, 6300, 6309, 6320, 6321, 6322, 6323, 6349, 6364, 6382, 6387, 6404, 6406, 6413, 6415, 6722, 6786, 2742, 6710 and 6713.

⁹ The 2013 SHLAA report said: "Tiverton Parkway rail station is 2.1 km distant".

¹⁰ There are approximately the same number of houses along that frontage as along the southern side of Turnpike including and to the west of No 16.

village rather than SP2, which is at one of the highest points¹¹. As the 2013 SHLAA report rightly says of SP2: "...although the site is next to the village boundary, the character and topography of the site sets it apart from the village" and "Development would have a significant landscape impact"¹². In terms of spatial relationship, I also refer to the points in paragraph 42 of my original submission. I reject the claim that it has a worse relationship with the built-up area of the village than SP2 and I comment further on this below [see entry for pages 193/202 below].

10. **Page 141**: The point about stability is only of note because the recent consultation proposed a SUDS facility on top of the bank [see Appendix 2, including my response].
11. **Pages 142/192**: There is reference to "some loss of hedgerow" and "new hedgerow". In respect of the former the SHLAA is clear that this is going to be substantial¹³. In respect of the latter it is evident that this is the extent of the Council's ambition in terms of mitigation. New or replacement hedgerow would not mitigate the harm to the character, appearance and setting of the Canal Conservation Area and the landscape more generally¹⁴.
12. **Page 143**: The policy contains no criteria that require respect for the cemetery or the Canal Conservation Area¹⁵. The consultation showed a draft layout that would present as a terrace or row of houses towering over these areas [see Appendix 2].
13. **Page 144**: I refer to my original submission with regard to the HEA; see amongst others paragraph 24. The GI does nothing to respect the setting of the Canal Conservation Area and because it pushes development down the hill it actually exacerbates the harm. The Council has offered nothing to ameliorate my concerns.
14. **Page 145**: The Council says: "Limiting development to the lower part of the site will limit the impact on the skyline and the development's prominence", but that is simply wrong. When the Inspector views the site, e.g. from my front garden, it will be clear that any housing development would breach the skyline when seen from the Canal Conservation Area or public vantage-points. Even if it was developed for bungalows, there being no policy criterion to require this, the roofs would define the skyline and the dwellings would dominate the setting to the Canal Conservation Area and be conspicuous in the wider landscape. Whilst I note reference to tree planting here it is not a policy requirement and the value of the odd tree within the development [see layout in Appendix 2] does not address my concerns or alter my assessment.
15. **Pages 147/191**: The Council admits: "It is recognised that there is a small break in the footpath" and so it must follow that the claim in the SA, with regard to a footpath from the south east corner, is false. The options are either walking down a single track unlit road with intermittent footway or walking on: "...a

¹¹ Page 52 of the Council's report to Full Council on 1 December 2016 says: "From the more elevated points of Sampford Peverell such as Higher Town..." [my emphasis].

¹² Both quotes taken from the 2013 SHLAA report; see pages 132-133.

¹³ This is confirmed by the Council's response [third and fourth boxes down in right hand column, page 192, SD11], which says: "The 2017 update still recognises that a substantial length of hedgerow would need to be removed" [my emphasis]. However paragraph 3.224a of the supporting text to the policy [SP2] still just refers to: "Some loss of hedgerow...".

¹⁴ See my statements in respect of matters 13 and 14, respectively.

¹⁵ Criterion c) of the policy refers to conservation area in the singular.

dangerous road for pedestrians". The Highway Authority has provided no evidence that is available in the public domain to show how this conundrum can be addressed¹⁶.

16. **Page 148**: Even if it were assumed that the footpath could become continuous, at 2.1 km Tiverton Parkway is above the acceptable distance for walking¹⁷. The J27 development would be further still. Walking is however a realistic scenario from Mountain Oak Farm and it is likely that the J27 development would be within 2 km.
17. **Page 149**: I do not dispute that it is technically possible to provide an access onto Turnpike, but my concern relates to the harm that this would have on the character and appearance of the area.
18. **Page 155**: The Council continues to refer to conservation area, in the singular, which shows how little attention it has paid to my representations. Colin Passey [6724] expresses the point well in saying that merely passing on the consultation responses to the Inspector does not constitute "*meaningful consultation as required*". Given the obvious flaws in the SA, I tried to encourage the Council to save its limited financial resources by delaying submission to address them; see paragraph 63 of my original submission. I note that Councillor Jenny Roach [25] made a similar plea: "*It is my belief that all members of the Mid Devon District Council should be able to respond to the results of the consultation and have a vote as to whether the changes to the original plan are in the best interests of the district*". It is therefore all the more remarkable that the Council has seen fit to carry on regardless to meet an artificial, self-imposed deadline¹⁸ of submission by 31 March 2017.
19. **Page 175/194**: It is accepted an SA is not a static piece of work and that further iterations can be made, of which the incorporation of a reference to the listed building is an example. However my concerns go far beyond mere changes to the text and in my view, whilst I am happy for the Inspector to rule as to which is the best performing site in the village, more substantial changes cannot be accommodated in this way. Thus the failure of the SA to properly take account of the very existence of the Canal Conservation Area means that the SA is an unsound evidence base to support the allocation of SP2. The Council needs to go back and start again, but do it properly next time and take account of all the evidence.
20. **Page 176**: It is accepted that the SA scoring system, whilst less than ideal, is fit for purpose. However because it is not prescriptive this does mean that professional judgment must be exercised. That is what I have done in making the assessment that I have.
21. **Page 189**: The Council says: "*Reasons for previously rejecting the other alternative sites are set out in the 2015 Sustainability Appraisal*". It is therefore clear that the Council did not give further consideration to these reasonable alternatives in the village at the point where the preferred option was chosen. It is entirely unclear why "*New information on SP2*" was sought but no new information was sought on the other alternative sites. Nothing that the Council

¹⁶ At the time of writing I await a response to a Freedom of Information [FoI] request that I have lodged with Devon County Council, which is scheduled to be provided by the date of the Hearing.

¹⁷ See The Institution of Highways & Transportation publication "*Guidelines for Providing for Journeys on Foot*"; excerpts in Appendix 7.

¹⁸ The Council continues to refer to "*...the Government deadline*" [page 134, SD11] even though this has long since passed and there have been no sanctions with regard to any alleged missed deadline.

has said properly explains why it selected one site over others for special consideration in an update report. The only reasonable conclusion is that the Council predetermined that this site should be chosen.

22. **Page 194:** The Council says: "*The Historic Environment Appraisal did not identify any significant impact to the Grand Western Canal Conservation Area*". I deal with this in my statement, but given that the hillside, and from our front garden within the Canal Conservation Area, the hedgerow on the Turnpike frontage of the site, defines the skyline this is precisely why I say the HEA is not fit for purpose. The SA failed to even identify the existence of the Canal Conservation Area and, even in the unlikely event that the Inspector is persuaded that it was a consideration that the Council took into account, it failed to discharge the statutory duty in section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
23. **Page 196:** The Council says: "*The SFRA (2014) undertook detailed site summary tables which recognised that the topography of the site may be too steep to allow for 'above ground' detention features*". This admission underlines that the SUDS feature on the draft master plan [Appendix 2] is unrealistic; I am yet to see any reasonable evidence that a SUDS feature can be achieved. The Mountain Oak Farm site is eminently well suited to provide this.
24. **Page 202:** The Council says the comment about Turnpike being dangerous: "*did not accurately reflect the context of the site with only some parts of Turnpike considered to be dangerous which predominantly relates to the area to the far West of Turnpike*". First there is no evidence to substantiate the claim, e.g. from the Highway Authority. Second, as someone who walks his dog up and down Turnpike regularly, the most dangerous parts are in front of the cemetery/No 18, at the point where the public footpath emerges from Blackdown View and the corner/listed bridge over the canal. The area to the far west of Turnpike is not a problem because there is a grass verge which ensures that pedestrians do not have to walk on the carriageway. This response is wrong and misleading, which I would like to demonstrate to the Inspector when he visits.
25. **Page 202:** The Council has not denied that noise from the A361 could be mitigated by a noise bund. This appears to corroborate my assessment for Land off Whitnage Road against objective H.
26. **Pages 193/202:** With regard to objective A and the relative detachment of SP2 and Mountain Oak Farm, I feel it is necessary to produce a copy of page 37 of the Town & Village Character Assessment¹⁹, as Appendix 3. This plan, which forms part of the Council's evidence base, categorises the vicinity of Mountain Oak Farm to be part of the village, but does not identify any of the dwellings to the west of No 9 Turnpike in this way. The process is evidenced based and this suggests that the relative scores are wrong. In that context it is disingenuous for the Council to argue that the site at Mountain Oak Farm is more divorced from the village than SP2²⁰.
27. **Page 204:** The Council says: "*The Canal Conservation Area is screened to a large extent by the housing on the south side of Turnpike Road. The impact*

¹⁹ <https://www.middevon.gov.uk/media/103553/tvc-settlement-character-part-1.pdf>

²⁰ It should be noted that paragraph 4.137 of the 2015 SA [page 57] merely describes the Mountain Oak Farm site as "...slightly divorced from the main body of the village" whereas the Higher Town site was described in the same document as "...divorced from the village" [page 309 of the 2015 SA]. It is material that only a small part of the Mountain Oak Farm site would be required for 60 dwellings.

would not be significant...". Just as Place Land LLP got the name of Higher Town wrong in its consultation, so the Council has got the name of Turnpike wrong. The substantive point is that the only thing between my property, within the Canal Conservation Area, and SP2 is the cemetery, which is essentially open and provides no screening function. The Council has failed to even consider the effect of the proposed allocation on this part of the Canal Conservation Area. Neither the SA nor the HEA has assessed the impact on the Canal Conservation Area, and so there is nothing in the evidence base to support a claim that the impact would not be significant. The Council has not done its job.