

Issue 12

1. In my consultation response I explained why the site at Higher Town is not the best performing site when assessed against the sustainability objectives that have been identified in the Sustainability Appraisal [SA]. This was summarised in the table at paragraph 50, reproduced below:

Objective	SP2	Whitnage Road	Mountain Oak	Morrells Farm
A	-1	0	0	0
B	-2	0/?	0/?	-2
C	+2	+2	+2/?	+2/?
D	-2	-1/?	-1/?	-1
E	0	0	0	0
F	0	0	0	0
G	+2	+2	+2	+2
H	-1	0	0	0
I	-1	0	0	0

2. I have reviewed the assumptions and professional judgments that I made in reaching this assessment. My comments on the Council's response to my submission, in document SD11, is at Annex 1. However I find nothing that leads me to revise my earlier appraisal. I look to the Inspector to tell the Council its SA is flawed and to prevent the harmful scheme that has been prepared by Place Land LLP from coming forward at any stage.

Issue 13

3. In my consultation response I explained why the site at Higher Town fails to have sufficient regard to the historic environment, specifically designated heritage assets. The National Planning Policy Framework [‘the Framework’] defines designated heritage assets to include Listed Buildings and Conservation Areas. It also defines the setting of a heritage asset¹.
4. I shall be generous to the Council and merely suggest it overlooked the effect that development of the site at Higher Town would have on the Canal Conservation Area when it was considered by the SHLAA panel, in its SA and when it was considered by Councillors up to and including the Full Council meeting on 1 December 2016². Whilst the existence of the Canal Conservation Area was noted in the Historic Environment Appraisal [HEA], when it said “*it lies some distance to the south*”, this was not picked up in the SA Update³.

¹ As: “The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral”.

² The Inspector will note that the public document pack for the Full Council meeting on 1 December 2016 is dated 23 November 2016, whereas the HEA is dated “December 2016” and so the Full Council could not have taken account of the HEA because it post-dates the meeting.

³ See in particular page 145 of that update, which merely says: “The HEA identifies that the site is adjacent to Sampford Peverell Conservation Area to North East”, but makes no reference to the Canal Conservation Area. The HEA expressly does not assess “...the significance and harm of potential development” on the Canal Conservation Area or suggest “...mitigation where appropriate” as per the comments in the January 2017 update [see in particular pages 50-51 of the HEA, which only assesses the potential impact and mitigation on the listed building and Sampford Peverell Conservation Area].

5. Given that is as far as the analysis went, I cannot accept that this is sufficient to discharge the duty in section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990⁴. So the short answer to the Inspector's question is that in my view the Council had **no** regard to the very existence of the Canal Conservation Area when it resolved to allocate the site in the draft Local Plan. Even if the Inspector gives the Council the benefit of the quite considerable doubt and finds that it did take account of its existence when it made its decision, by virtue of the passing reference to it in the subsequent HEA, I cannot accept that this was sufficient to discharge the statutory duty that falls upon the Council. To note that a designated heritage asset lies a certain distance away does not discharge the duty to consider what effect housing development might have on its character or appearance. It does not fulfil the Historic England advice⁵ that where a heritage asset is in the vicinity some sort of impact is likely, such that an assessment of harm is required. I submit that the Council's decision is unlawful because it has not paid **special attention** to the effect of the development on the Canal Conservation Area.
6. Annex 2 contains commentary on an updated set of photographs that I have taken principally from within the Canal Conservation Area. I accept the Council has had some regard to the historic environment because it has seen fit, albeit as an afterthought, to designate an area as GI to, among other things, respect the setting of the listed building and the Sampford Peverell Conservation Area. However this belated concession does not go nearly far enough because, as I have shown, the Council failed to identify and/or consider the effect of the allocation on the Canal Conservation Area. For this reason the allocation is unsound. It is not consistent with national policy⁶ because the Council has not assessed the significance of the designated heritage asset or given great weight to its conservation⁷. The allocation has not therefore been justified⁸ as being the most appropriate strategy, given the reasonable alternatives that are available even in the village, let alone in other areas of the District.

Issue 14

7. In the context of my consultation response and the numerous photographs that have been provided by others I felt it would be appropriate to respond to this question in a more structured way. I confirm that the photographs referred to herein have been taken⁹

⁴ It applies: "*In the exercise, with respect to **any buildings or other land in a conservation area, of any functions under or by virtue of any of the provisions mentioned in subsection (2)3, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area***" [**my emphasis**].

⁵ See paragraph 10 of my consultation response. The [final version](#) was published in December 2016 and paragraph 1.4 still says: "*where a plan is allocating land for particular uses or otherwise setting a framework for the allocation or development of land, and where heritage assets are in the vicinity or likely to be present, then some sort of impact is likely*".

⁶ Fourth bullet-point of paragraph 182 of the Framework.

⁷ Paragraphs 129 and 132 of the Framework, respectively.

⁸ Second bullet-point of paragraph 182 of the Framework.

⁹ Using a Canon IXUS 285 digital camera.

without using a zoom or any other modification¹⁰. Representative viewpoints have been selected from the local area¹¹.

8. Landscape and Visual Impact Assessment (LVIA) is a tool used to identify the effects of development on "*landscape as an environmental resource in its own right and on people's views and visual amenity*"¹². I am used to interpreting LVIAs, but I acknowledge I am not a Landscape Architect. This makes it all the more important that the judgements that I make are based upon a clear and transparent method, which is set out in Annex 3.
9. The Council's Landscape Character Assessment seeks to "*inform planning policy formation*". To that end Sampford Peverell is identified within LCT 3E "*Lowland Plains*", which is characterised by gently rolling arable farmland divided by distinctive, valued hedgerows. The landscape is said to be semi-open with: "*occasional long views from prominent locations*". In that context the Strategic Guidelines include to: "*protect tranquillity of views by locating development away from either plateau edges, ridgelines or prominent slopes...*".
10. For the reasons set out in Table 6 in Annex 3, the proposed development would cause significant landscape effects, particularly in relation to designated heritage assets. There would also be significant landscape effects on the hedgerow on Turnpike, the openness, landform and land cover of the site, and the aesthetic and perceptual aspects arising from the land being open and a natural slope. Overall I find there would be significant effects on the overall character of the landscape.
11. In relation to visual effects, having regard to Tables 11-13 in Annex 3, of the 15 viewpoints assessed, 50 receptors were identified and assessed. Of those, 25 were assessed as major negative. For these reasons I find that the development would have a significant negative effect on visual amenity within one kilometre of the site. There would be a significant negative visual impact on countryside views from surrounding roads, footpaths and houses. The adverse effect would be particularly pronounced in views from the tow path, including immediately to the south-west of Sampford Peverell, the significance of which is shown by the fact the Council's own LVIA of Strategic Sites adopted this viewpoint¹³.
12. The more distant shots demonstrate that the site can be picked out with the naked eye from around 9-10km away from 2 different directions, which is probably unprecedented for a housing site of just 60 houses. At the very least this shows that the Council has disregarded its suggested guideline in its Landscape Character Assessment. However, as might be expected, whilst more distant views would change, distance determines that the effect would be less significant. The zoomed shots are however useful in showing different perspectives of the site from various public vantage-points, which in my submission categorically demonstrates that the proposed extent of the GI has not been informed by any analysis of

¹⁰ Apart from where stated, i.e. photograph Nos 13b, 14b and 15b, which are taken from the same place as photograph Nos 13a, 14a and 15a, but with a zoom to aid their interpretation. Originals of all photographs, which can be inspected for their properties, will be submitted to the Inspector.

¹¹ Maps showing the locations from which all of the numbered photographs referred to in this statement have been taken are provided at Appendix 4.

¹² Source: paragraph 1.1 of the Guidelines for Landscape and Visual Impact Assessment, third edition, hereinafter "GLVIA3".

¹³ See paragraph 5.10.14 of the PBA LVIA and, in particular, viewpoint J4, which looks the other way.

landscape context. Although the zone of theoretical visual influence might extend beyond Black Down Common to the north-east and Blackborough to the south-east I accept that there is some doubt as to the extent to which the proposed development would be perceptible from even more distant public vantage-points.

13. In summary the landscape and visual effects of the proposed development would be felt over a wide area due to the site's elevation and by virtue of it being a prominent slope. The significant effect on landscape character and visual impact in local views suggests that the Council's assertion that the effect of the development can be fully mitigated is unlikely to be correct. It has failed to undertake an LVIA as part of its evidence base in order to inform the completely random line of the GI, which underlines that this aspect of the proposed allocation is also unsound.

Issue 15

14. In my consultation response I explained why the choice of the site at Higher Town was based on a falsehood, namely the claim that: *"There is a footpath on Turnpike from the south east corner of the site which leads into the village"*. I want to emphasise the phrase *"south east corner"*; the reference to Turnpike is unambiguous.
15. It is appropriate to focus on *"Manual for Streets"* in this submission¹⁴. Paragraph 6.3.22 says: *"In lightly used streets (such as those with a purely residential function), the minimum unobstructed width for pedestrians should generally be 2 m. Additional width should be considered between the footway and a heavily used carriageway..."*¹⁵
16. It is clear that Turnpike is not a lightly used street and it does not serve a purely residential function. For approximately 2 months this summer the North Devon Link Road [A361] has been closed overnight roughly from 1900 hours to 0700 hours, albeit in one direction at any one time. Due to

¹⁴ The County Council appears to have a Highway Guide entitled *"Highways in Residential and Commercial Estates"*, which is available on the Council's website. Part 1 is entitled *"Highways in Residential Estates"*. The Introduction says: *"This Part of the Design Guide sets out the philosophies and detailed guidance on the layout of residential estates, based on the 2nd edition of Design Bulletin 32"*. The Inspector will be aware that page 5 of *"Manual for Streets"* says that it supersedes Design Bulletin 32, which is withdrawn. Part 2 of the Council's Highway Guide is entitled *"Highways in Commercial Estates"*, Part 3 is entitled *"Highway Adoption Procedures"* and Part 4 is entitled *"Specification for Estate Roads – Construction and Materials"*, none of which appear to be relevant to this residential scheme at this formative stage. The Council's website says: *"The Design Guide, Highways in Residential and Commercial Estates was first published in 1996 and last updated in 2001. In recent years the approach to the design of the space between buildings has evolved away from the traditional dominance of the engineered carriageway. There is now a recognition that the public realm has many wider functions than just the movement of vehicles. This has been recognised in the national launch of the Manual for Streets (MfS) and MfS2. Devon County Council played an instrumental part in the development of MfS and now works with developers to follow its principles in the design of new layouts in the county. ... Part Four of the Devon Design Guide, the Specification, and continues to be updated ... The MfS replaces much of the remainder of the Design Guide. However the remaining chapters can be referred to for information such as parking space dimensions and commercial estate roads and are therefore included for reference to those elements not covered in the Manual for Streets"*¹⁴ [*my emphasis*].

¹⁵ Further guidance on minimum footway widths is given in the Government publication, referred to in Manual for Streets, called *"Inclusive Mobility"*. Section 3.1 says: *"A clear width of **2000mm** allows two wheelchairs to pass one another comfortably. This should be regarded as the minimum under normal circumstances. Where this is not possible because of physical constraints **1500mm** could be regarded as the minimum acceptable under most circumstances, giving sufficient space for a wheelchair user and a walker to pass one another. The absolute minimum, where there is an obstacle, should be **1000mm** clear space. The maximum length of restricted width should be **6 metres**"*.

roadworks in the vicinity of Blundells School¹⁶ there was a continuous queue on Thursday 20 July from Tiverton back to Sampford Peverell. There was a high proportion of HGVs amongst the diverted traffic.

17. In the circumstances I submit that not only is the required footway width 2 m, but additional width and/or some degree of protection¹⁷ is required for pedestrians using what is, at times, a heavily used carriageway. The traffic survey that was undertaken recently might not demonstrate this because it was undertaken before the period that the A361 was closed overnight. The weight to be given to such an unrepresentative survey is for the decision maker, but in my submission it should be limited.
18. It is clear that there is no scope to provide a footway along parts of Turnpike, such as in front of the cemetery [sacred ground] and at its north-eastern end, where the stone garden wall of a property within the village conservation area abuts a listed bridge. When tested against the current standard it is also clear that the existing footway is severely substandard because at no point is the footway even close to 2 m wide¹⁸.
19. The draft master plan produced by Place Land LLP merely identifies a "*Potential pedestrian connection*" at the south-east corner of the site¹⁹. It should be noted that this is on the side of the road where there is no footway at all. Residents would have to cross Turnpike at this point to join the footway and potentially cross Turnpike again at the point where the footway runs out from the inside of a blind bend. Both crossing manoeuvres on the only road that the Council says is "*dangerous*".
20. Notwithstanding the unambiguous phrase used in the SA, there appears to be no scope to provide a 2 m wide footway in Higher Town. In the event that the Council seeks to promote a shared surface street, or similar arrangement, in Higher Town as an alternative to a continuous footway in Turnpike, I reserve the right to comment²⁰. Given the single track width of Higher Town there appears to be very limited scope to provide a physical demarcation between vehicles and pedestrians.
21. I submit that none of the relevant criteria in "*Manual for Streets*" apply²¹. To work at all it would need to extend from the site to the church which is not a short length. Higher Town is not a cul-de-sac. The peak hour of traffic movements²² is likely to exceed 100 vph and for this purpose the traffic survey is not fit for purpose because it was undertaken at the

¹⁶ A newly identified conservation area where the Council has undertaken a traffic calming scheme and is now enhancing the materials used on the footways, in sharp contrast to the Council's approach to the Canal Conservation Area in Sampford Peverell.

¹⁷ Such as the metal barriers that exist in the vicinity of the footbridge over the canal.

¹⁸ I understand that the key reason my neighbour, Mrs Mary Chesney [6700], wishes to address the Hearing is because of her experience of using Turnpike.

¹⁹ Given the steepness of the bank and the proximity of the proposed suds feature, there must be doubt as to whether this would achieve the gradients set out in section 3.2 of "*Inclusive Mobility*".

²⁰ I note that paragraph 7.2.12 of "*Manual for Streets*" says: "...in many instances, a protected space, with appropriate physical demarcation, will need to be provided, so that those pedestrians who may be unable or unwilling to negotiate priority with vehicles can use the street safely and comfortably".

²¹ Paragraph 7.2.14 of says: "...shared surface streets are likely to work well: i) in short lengths, or where they form cul-de-sacs...; ii) where the volume of motor traffic is below 100 vehicles per hour (vph) (peak)...; and iii) where parking is controlled or it takes place in designated areas."

²² It is likely that the peak hour, in terms of vehicle movements on Higher Town, is related to the school, probably in the morning [0800-0900 hours] when there will be other vehicular movements associated with work.

wrong end of Higher Town²³. Photographs before the examination show uncontrolled car parking.

22. Even if the Council promotes a pedestrian route via Higher Town to serve this site, my observations are that pedestrians are likely to use the most direct route to walk into the village to access the shop, pubs etc. By way of example I observe older school children who catch the school bus to Uffculme from the bus stop outside the Globe Inn walking down the path from Blackdown View, at the side of No 1 Turnpike. The safer route would be via Higher Town, which would avoid crossing Turnpike from the inside of a blind bend at the southern end of the public footpath from Blackdown View, but they presumably chose the shortest, most direct route. I submit that the same psychology would inform the choice of prospective residents who, regardless of whether a link was put in to the north-east, might still choose the most direct pedestrian route into the village.
23. The Council is proposing a further minor modification to policy SP2²⁴. However this has not been the subject of consultation and for the above reasons I submit that no meaningful improvements can be delivered. No party has shown how a continuous footway to the required width can be provided to connect this end of the village with the main services and facilities within the village. Unless evidence is provided to show the provision of a footway is deliverable I object to this minor modification, which does not overcome the fundamental issue with this choice of site.
24. Turning to accessibility in terms of distance, the Institution of Highways and Transportation [IHT] have produced guidance²⁵. Paragraph 2.54 says: "*Local Plans have several important functions for walking. These may include policies to: [third bullet-point] Ensure that new development is linked to a pedestrian network...*". There is a degree of irony that the Council got such a basic fact wrong in its SA in the circumstances.
25. Table 3.2 of the IHT guidance identifies suggested acceptable walking distances to include a maximum of 800 m to a town centre, 2 km for commuting and 1.2 km elsewhere²⁶. Whilst no longer extant it is material to note that the old Regional Planning Guidance for the South West [RPG 10] established a maximum walking distance of 600 m to a shop²⁷. There is a regular bus service along Turnpike, but even if a resident caught a bus in one direction to the shop it is likely that the other journey would be on foot. My observation is that many of my neighbours in Turnpike drive to pick up the paper in the morning from the village shop.
26. I produce as Appendix 9 an excerpt from the OS 1:25,000 scale map for the area on which I have annotated the 800 m distance from the post

²³ This was undertaken in the vicinity of the site on Higher Town, as well as on Turnpike. It is doubtful whether the traffic survey that was undertaken earlier this year would have picked up this peak traffic flow because most vehicular movements would be likely to head east, not west. People living in Higher Town head through the village and those driving their kids to school would predominantly be from within the village.

²⁴ See document SD11, page 147, which would add the following criterion to ensure: "...improved access to the village for pedestrians and cyclists".

²⁵ Entitled "*Guidelines for Providing for Journeys on Foot*"; relevant excerpts at Appendix 7.

²⁶ Paragraph 3.31 of the IHT guidance says: "*Acceptable walking distances will depend on various factors including: [third bullet-point] Availability, cost and convenience of alternatives transport modes; [fifth bullet-point] Journey purpose; and [seventh bullet-point] General deterrents to walking*".

²⁷ A copy of Table 1 from RPG10 is produced at Appendix 8.

office/shop in the village²⁸. It is clear that the vast majority of the proposed houses will be beyond the IHT maximum and I submit all will be beyond what RPG 10 defined as maximum. When combined with the characteristics of the road, namely a busy, "dangerous" route without a continuous footway, the deterrents are likely to outweigh any benefits such that prospective residents are likely to drive even to obtain the most basic of daily provisions. By contrast it should be noted that Mountain Oak Farm is much closer to the village shop/post office. There is also a farm shop/butchers at Little Turberfield, which is within walking distance of that site. There is scope to provide a link from the Mountain Oak Farm site onto the tow path, subject to the consent of the County Council²⁹.

27. In terms of commuting, the rationale for the housing allocation in Sampford Peverell is to serve the facility at Junction 27 and whilst I appreciate residents might work anywhere there should be an effort to identify a site within walking distance if proximity is a key factor. The Council acknowledge that the SP2 site would be over 2 km from Tiverton Parkway Railway Station. As the proposed development at Junction 27 lies to the south-east of the M5 it is clear the respective development sites³⁰ would be beyond the IHT maximum commuting distance on foot, such that walking to work would be most unlikely.
28. However, assuming a footbridge is provided over the M5³¹, the site at Mountain Oak Farm would be much less than 2 km. It is a broadly flat route and, as noted in my consultation response, there is a s106 requirement to provide a footway along Station Road. As paragraph 3.36 of the IHT guidance says: "*Additional walking distances or gradients, can be crucial in determining whether a development is pedestrian friendly*". Taking this guidance into account, and in particular the hill which would be a deterrent to cycling, I submit that on every relevant measure SP2 comes out worse than the most reasonable alternative.
29. For these reasons I submit that the proposed allocation, SP2, is not properly accessible, in particular for pedestrians. The Council's failure to appreciate that there is not a continuous footway from the south-east corner of the site into the village is a basic error that undermines the soundness of the allocation and the Local Plan. In my view it is not correctable because there is no obvious way of mitigating this issue because of the existence of the listed bridge.
30. Conversely if the Council seeks to argue at the Hearing that the problem can be addressed by providing a footway onto Higher Town that should be taken as a clear admission that the evidence base is unsound. The terms of the SA in this regard is very clear and any fundamental reappraisal needs to be widely consulted on rather than being canvassed for the first time at the examination Hearing.

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August 2017

[Word count 2,992]

²⁸ As the crow flies and hence on the ground this is not likely to extend so far west.

²⁹ As owner of the canal as well as in its capacity as Highway Authority.

³⁰ SP2 and the Junction 27 development.

³¹ Understood to be a requirement in order to link any development to the station.