

Mid Devon Local Plan Review 2013-2033
Proposed Submission (incorporating proposed modifications)
Examination

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POST-HEARINGS ADVICE NOTE

Vision, Spatial and Development Strategy, and Strategic Policies

From what I have read, and heard, I am content that the OAN figure of 7860 (393 pa) is soundly derived, as is the extent of commercial development envisaged. That said, while I appreciate the headroom allowed for, to comply with the (2012 version of) the Framework, these figures must be expressed as minima in Policy S2. That will require a Main Modification (MM).

Likewise, while I am sure there are different ways it could have been done, the vision, and general approach of the Plan, directing development, and housing in particular, to Cullompton, in the main, is reasonable, in principle.

However, there are some difficulties that flow from this approach. Given the highway constraints involved, the decision to concentrate on Cullompton has significant implications for delivery, and as a result, the housing trajectory and supply situation. Thanks to the now-completed signalisation scheme at J28 of the M5, the site to the north-west of the settlement for 1350 dwellings (Policy CU1), can deliver 600 dwellings before the proposed Town Centre Relief Road (TCRR) is complete. The remaining 750 dwellings must await its completion, as must the first 500 dwellings of the large allocation to the east of Cullompton for 1,750 dwellings in the Plan period (Policy CU7). Beyond that first 500 units, the allocation to the east of Cullompton will require a strategic intervention to facilitate further development, which may take the form of a new J28a on the M5.

It is reassuring, of course, to hear that the Council has secured funding from Central Government for part of the cost of the TCRR. That said, I am not party to the conditions attached to the funding offer (for reasons of commercial confidentiality) so I cannot be sure whether they can easily be complied with. On top of that, experience suggests that it will be some significant time before the TCRR is completed, and certainly more than 2/3 years. The land for the road has yet to be assembled, no planning application has been made for the road, and construction is likely to take many years.

With all that in mind, I have a significant concern about the housing trajectory in the early years of the Plan (before the TCRR is complete) in particular. I believe there to be a real danger that in those early years, the Council will find it difficult or impossible to show a five-year supply of deliverable housing sites. That situation may well continue if the TCRR takes longer to complete than envisaged (not an unusual occurrence where major infrastructure works are concerned). That would make the Plan under examination unsound.

With all that in mind, I require the Council to provide, for my analysis, a projected housing trajectory for Years 1-5 and 5-10 incorporating realistic assumptions about the delivery of the TCRR, demonstrating how a five-year supply of deliverable housing sites will be maintained throughout these periods.

If that exercise shows that maintaining a five-year supply of deliverable housing sites will be difficult, or impossible, then MMs may well need to be considered to address the shortfalls. These may include for example (depending on the scale of any shortfall):

1. Bringing forward other allocated sites that are currently restricted in terms of timing with no good reason, the Policy SP2 site for example; and/or
2. Bringing forward the contingency sites; and/or
3. Extending existing allocations to accommodate more dwellings (the Policy WI1 site for example) or increasing densities to allow for more dwellings on allocated sites that are less constrained; and/or
4. Allocating a new, large site not constrained by the link road (or motorway junctions) that can come on stream quickly and bolster supply in the early years of the Plan while infrastructure is provided elsewhere.

Whatever the approach, it must be realistically capable of making a contribution to housing supply upon the adoption of the Plan. However, the first step must be the preparation of the projected housing trajectory.

Provision for Gypsies and Travellers

I have some concerns with the approach in both general and specific terms.

Not planning to meet the identified need in full is regrettable. While there is a history of 'windfall' sites coming forward, criterion a) of Policy S14, as amended, would appear to rule them out, in the countryside at least.

On top of that, while I make no criticism of the Council for having put forward allocations for Gypsy and Traveller Sites as part of wider housing allocations, it is clear from the evidence I heard at the Hearing, which was expanded upon subsequently, that this course of action might well lead to problems of delivery of either or both (which adds to my concerns about the housing trajectory expressed above). A more pragmatic approach is required, in my view.

Moreover, Policy DM7 stipulates, in relation to development proposals in the countryside, that the need should not be able to be met on another suitable site in Mid Devon which has consent or is allocated for Gypsy and Traveller pitches. That is an effective bar on this type of development if there are difficulties with delivery of allocated sites for the reasons set out above. Furthermore, if the Council is not planning to meet the identified need in full, I question the purpose of the stipulation.

Against that background, MMs will be required to the Plan under examination to ensure the need can be met and thereby make this part of it sound.

There are options that I might suggest:

1. Plan to meet the identified need in full by allocating enough sites while ensuring those sites are decoupled from general housing allocations to form separate allocations; or
2. Make Policy S14 permissive of G&T Sites in the countryside while decoupling allocated G&T Sites from general housing allocations and deleting the stipulation in relation to need in Policy DM7.

Policy J27

Having previously confirmed that I have no difficulty with the policy, and the aspirations it embodies, in principle, my questions at the Hearing were raised in the light of concerns that the policy, as drafted, was somewhat inflexible and too far geared towards a specific development model.

Based on the discussion I am however content that while the policy 'makes provision' for various elements, it does not rule out a scheme that takes a different format and in particular, a less ambitious scheme that might not require the Outlet Shopping Village. In that context, I do not see the need for any changes to the policy.

Policy SP2

This was discussed in some detail at the Hearings. I would observe first of all that the Plan's OAN of 7860 (393 pa) is an overall figure that reflects the inclusion of the Policy J27 allocation. Given that the Policy SP2

allocation is included so that the overall housing requirement can be addressed, the tie to Policy J27 serves no purpose. Reference to it should be removed.

Moreover, it was clear from the helpful submissions of the Highway Authority, that the limitation on development until the completion of improved access works to the A361 is unnecessary. Criterion b) needs to be removed.

These changes will require MMs.

Policy CB1

Issues were raised about this allocation but having visited the site, I am content that careful design (governed by Policy DM1) of any scheme that comes forward can ensure that impacts on the character and appearance of the area, and living conditions of adjoining residents, are kept within reasonable bounds. I do not see the need for any changes, therefore.

Development Management Policies

I have some concerns about the wording of Policy DM2 because the first part seeks to avoid any significant adverse impacts, but the second part requires renewable and low carbon energy to preserve (which I take to mean cause no harm to) landscape character, the setting of heritage assets, living conditions, and so on. The former is the correct approach and the second part needs to be adjusted to remove the contradiction. This will require a MM.

In relation to Policy DM5, I am content that the provision for electric vehicle charging points is not too onerous.

Policy DM12 gives cause for concern. Criteria a) and c) seem to me to be more about design and might find a more comfortable home as part of Policy DM1. I take a similar view in relation to criterion b). The general size and configuration of a dwelling, and the proper handling of recycling, refuse and cycle storage, are design-based considerations and the reference to the Nationally Described Space Standard seems to me unnecessary. If these criteria are adjusted to make plain that they refer to the design of new housing, and relocated into Policy DM1, then that would be a more efficient way of dealing with the matter. Based on what I read in advance of, and heard at, the Hearings, I am not convinced that the requirement for 30% of houses on sites of 10 houses or more to be built to Level 2 of Building Regulations Part M has been made out. I believe 20%, as a carry forward from the existing policy that refers to Lifetime Homes standards, is reasonable but again, this requirement could be moved into Policy DM1. All this will require a MM.

There was some discussion about criterion c) of Policy DM19 which deals with the protection of employment land. In my view, if criterion b) is satisfied, and suitable marketing (which might include for mixed use purposes) has taken place at an appropriate price, for at least 18 months without any interest, then an alternative use (which may take the form of a mixed use) should be allowed to come forward. Criterion c) which requires an additional sequential viability test is far too onerous a requirement and should be removed through a MM.

Policy DM25 has several issues. To comply with Statute, criterion a) should apply a presumption in favour of preserving or enhancing all designated heritage assets, not just the most important ones. A reference to their settings would assist too. Criterion b) needs to refer to the significance of heritage assets rather than heritage assets and their settings. Criterion c) needs to properly reflect the wording of paragraph 133 of the (2012 version of the) Framework by referring to significance. The direct reference to paragraph 133 should be removed because planning applications will be determined using the latest version of the Framework. Criterion d) should properly reflect paragraph 134 of the (2012) Framework and refer to significance. Criterion e) could confine itself to 'Require developers to make a proportionate but systematic assessment of any impact on the setting and thereby the significance of heritage asset(s)'. Pointing to HE guidance in the manner proposed seems to me to run the risk of that guidance changing. All this will require a MM.

The phrase 'development proposals within or affecting' at the beginning of Policy DM27 is a little confusing. A development proposal within a protected landscape will obviously affect it. If the intention is to offer some protection to views into or out of the protected landscape, which seems reasonable, then it may be clearer to make a specific reference to such views. This would mean a MM. Alternatively, reference could be made to the setting of a protected landscape but that is more difficult and might require some form of definition in the explanatory text. Again, that would lead to a MM.

I have a concern that Policy DM28, and in particular the way it approaches mitigation and compensation in criterion c), fails to comply with 'People over Wind' and subsequent judgments. I suggest at this stage that the Council checks this point with their expert advisors.

Other Matters

A number of changes to the Plan have been agreed in the various Statements of Common Ground submitted before and during the Hearings, and others were accepted by the Council at the Hearings (notably in relation to highways, education and other infrastructure required by the County Council). Consideration will be required to ascertain whether these changes will necessitate MMs. As a guide, anything that meaningfully changes an actual Policy, or in the case of supporting text, goes to the heart of the approach, will be. There are other minor changes proposed to the Plan too but anything that falls short of a MM is a matter for the Council.

Concluding Remarks

I recognise that this will give the Council much to ponder. Work can proceed on the production of a schedule of MMs in some areas. However, the projected housing trajectory for years 1-5 and 5-10 will need to be prepared before consideration can be given to whether MMs are required to address any housing supply difficulties. It is imperative that this piece of work is addressed and completed as soon as practicable and I would be grateful for an early indication from the Council of the likely timescale.

Once all MMs have been put together (assuming the Council wishes to deal with them all at once), they will need to be consulted upon, of course, and after that, it may be that another Hearing is required to discuss them. Alternatively, it may then be possible for me to proceed to my report. I will of course, keep this under review.

Paul Griffiths
INSPECTOR
21/05/19