

APPEAL BY WADDETON PARK LTD

APPEAL REFERENCE: APP/Y1138/W/22/3313401

LAND AT HARTNOLLS FARM, TIVERTON

SUMMARY PROOF OF EVIDENCE OF DAVID SEATON
HOUSING SUPPLY

OUTLINE PLANNING APPEAL FOR THE EXTENSION TO
THE EXISTING BUSINESS PARK FOR UP TO 3.9HA OF
EMPLOYMENT LAND AND UP TO 150 RESIDENTIAL
DWELLINGS WITH ASSOCIATED OPEN SPACE AND
INFRASTRUCTURE (WITH MEANS OF ACCESS TO BE
DETERMINED ONLY).

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PLANNING

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Contents

1.	Comments on the Council's Evidence Base	Page No. 3
2.	Deliverability over the Residual DP Period	Page No. 5
3.	Conclusions	Page No. 9

1. Comments on The Council's Evidence Base

1.1 The information that the Council rely upon in this case is limited and falls well short of what Government policy requires. It is not possible to discern what, if any, methodology has been adopted to the assessment of deliverability. No correspondence with landowners/ developers has been disclosed (apart from the summary notes in the right hand column of the appendices to the Housing Land Supply Summary titled 'Deliverability Evidence/Other Comments', see CD25). Thus, there is no evidence of analysis of site issues, or the availability of necessary resources. What is clear is that, in relation to the disputed sites, there is evidence of failure to appreciate the implications of identified issues – for example keeping Area B in the trajectory despite the acknowledged problems with the delivery of that part of the TEUE.

1.2 Specific government policy on the inclusion (or not) of a windfall allowance is set out at paragraph 71 of the NPPF which sets out that:

"Where an allowance is to be made for windfall sites as part of anticipated supply, there should be compelling evidence that they will provide a reliable source of supply. Any allowance should be realistic having regard to the strategic housing land availability assessment, historic windfall delivery rates and expected future trends."

1.3 This policy is clear and stringent. In order to rely on windfall sites "compelling evidence" is needed that they "will provide a reliable source of supply" . This is forward looking. Whilst regard to historic delivery rates is permissible, it is not sufficient, the assessment must take account of 'expected future trends'. Furthermore, the past is no guide to the future in this matter since:

- most larger brownfield sites within Mid Devon have already been redeveloped so there is little potential future supply from this source.

- double counting – the SHLAA process seeks and identifies such sites whereas historically many SHLAA sites would be recorded as windfalls (therefore inflating historic rates).
- ‘Taxation’ of residential development (via affordable housing quotas and S106) cumulatively means that existing uses are more viable in comparison (since they are not subjected to the same financial costs and redevelopment costs do not need to be incurred).
- Similarly redevelopment for other uses (such as employment/retail etc) are not ‘taxed’ in the same way.

1.4 In my opinion the Council’s HELAA methodology (CD27) does not constitute ‘compelling evidence’ of the windfall allowance that they rely upon. There is no evidence that the methodology used has considered the above points (at all). The burden of proof is on the Council to demonstrate the robustness of that methodology. My scrutiny of it leads me to conclude that it amounts to little more than a method of projecting past trends forward (as opposed to a detailed scrutiny of the above trends). For example the Council have not compared the historic costs burden imposed on residential development to the current cost burden that it seeks from residential development. There is no reference to relating historic windfall trends to achieved land values (which would illuminate the Council’s understanding of what future trends are likely to be).

1.5 I therefore conclude that the Council’s evidence base falls some way short of ‘compelling evidence’ and, consistent with Government policy, I have removed the windfall allowance from my assessment of 5YHLS.

2. Deliverability over the Residual DP Period

- 2.1 In addition to my conclusion about the 5YHLS position it is important to consider where the Council are in relation to the deliverability of the DP and in particular that part of the DP that relates to Tiverton.
- 2.2 Tiverton is the main settlement within the plan area. It is, in my opinion, the most sustainable settlement in the plan area with the largest population, the largest base for the provision of goods and services, and the only settlement served by a rail station (Tiverton Parkway). Indeed, the primary reason that Cullompton was identified as the primary location for development in the local plan rather than Tiverton, was due to the perception that there were landscape constraints (see Local Plan Inspector's report, para 26). It is agreed that no such issues arise in respect of this proposal.
- 2.3 Unfortunately unrealistic expectations regarding the deliverability of the allocations not only affect the Council's 5YHLS position, but also the deliverability of key elements of the DP at both Cullompton and Tiverton.
- 2.4 At Cullompton there are significant infrastructure constraints that embargo delivery from the two main sites (North West Cullompton and East Cullompton (Culm Garden Village). Neither site can proceed without delivery of the town centre relief road, and there is no certainty of that (see previous section of this PoE and CD 66, page 126). Additionally East Cullompton is fettered by the need for capacity improvements to the existing motorway junction (that are neither agreed, nor programmed). Bearing these (and other constrained in mind) I consider that there is no prospect of delivery from East Cullompton by 2027, nor achievement of the Council's proposed trajectory from that site over the period 2028-2033 (which assumes delivery rates that are wildly optimistic).
- 2.5 This places a heavy emphasis on delivery from Tiverton if the plan strategy is to be delivered. At Tiverton those matters fettering deliverability are summarised below.

- 2.6 There has been little/no progress with Allocations TIV9, TIV10 and TIV16 (covered in the unconsented allocations section of this PoE).
- 2.7 The lack of progress with these sites puts more pressure/focus on the need to deliver the TEUE. Whilst part of the TEUE appears as a consented allocation that classification is misleading. Firstly it is only consented in part i.e. primarily the Chettiscombe Trust Land (14/00881/MOUT) and of that consented area only a small part has been subject to a disposal to a housebuilder and a reserved matters consent (21/00454/MARM). This element of the allocation is on site and delivery from this element is not disputed (see map provided as appendix 1).
- 2.8 But I dispute the additional 98 dwellings that have been included by the Council in the 5YHLS from the outline area (not subject to a grant of RM). I also dispute the projected delivery rate that the Council include in their trajectory (50 dwellings per annum from 2027-2033). The outline permission for 700 units has a residual amount of 536 dwellings that do not benefit from an RM permission (of which 98 are counted by the Council as 'deliverable'). To my knowledge there is no evidence that demonstrates any progress with the monitoring of the balance of this site in the foreseeable future. On the contrary the Council appear to be aware of deliverability issues, but are not entirely cognisant of the implications of those issues. The OR (CD1, paragraph 4.9, page 43) states that:

"there is a recognised access issue on the eastern side of the TEUE, due to land ownership and phasing, which will impact the development in the medium to long term. It is generally agreed that providing an eastern access as early on in the life of the EUE would be expedient to ensure the timely delivery of the EUE as envisaged within the Local Plan."

- 2.9 This statement fails to recognise the whole picture. It is the progress, or lack thereof, with the Chettiscombe Trust land (the residual 536 units) that currently controls the provision (or not) of a road access to 'Area B' of the TEUE (a further 550 units). As matters stand there is no incentive for the

Chettiscombe Trust to make provision for a road to serve Area B and this may well affect their decisions about land release for the balance of the consented site.

2.10 Secondly, the Council's current position recognises that 138 units (of the residual 536 units) will not be delivered by 2033 (the end date of the current DP – see Appendix A (2) of CD25) – therefore the Council recognise that planned delivery failure will occur. Whilst I concur with that conclusion I think the Council are too optimistic in relation to overcoming the significant obstacles to delivery that exist and that, by 2033 the plan failure figure from this element of the TEUE is likely to be in the region of 250 units (rather than the 138 deficit recognised by the Council) due to the delayed land release process and the need to resolve access provision issues prior to a road serving Area B.

2.11 Allied to the above is the inclusion by the Council (see Appendix A(1) of CD25) of 550 units from Area B between 2027 and 2032. I note that this latest projection by the Council differs from that set out at page 110 of the Area B SPD (CD13) which sets out a more optimistic delivery schedule (with completions occurring a year earlier i.e. 2026/2027). Therefore, in their latest assessment the Council acknowledge that there is a problem here. However, in my opinion the latest projection is not possible, at least without the grant of permission of the appeal proposals. As matters stand:

- Area B is not an assembled site (currently being in multiple ownership), it is potentially ransomed by the consented area to the east, and there is no developer interest in the site.
- The assumptions made about 3 developers and 150 units per annum are wholly without foundation and grossly unrealistic (it appears that all the Council have done is 'bumped back' the delivery schedule set out in the emerging SPD – and that projection is unevidenced and unrealistic).

- In my opinion none of the 550 units are likely to come forward unless the appeal proposals are granted (thus making a deficit of circa 800 units against the planned provision).

2.12 This would be a significant plan failure. The appeal proposals provide a method of unlocking access to the site, and that gives the Council a fighting chance to use that certainty to catalyse the (currently disparate) land ownership interests so that a developer could make applications and bring the site forward.

2.13 Even if that were to happen I very much doubt that the full 550 units would be delivered by 2033. My estimate would be circa 400 (and that may well be too optimistic).

2.14 The 150 units that would be deliverable via the appeal proposals need to be seen in this context. I consider this matter more fully in my Planning PoE.

3. Conclusions

- 3.1 I assess that deliverable supply as 2,048 units (for the reasons set out in this PoE). Applying the corrected 5 year housing requirement figure, this equates to 4.09 years (Table 3).
- 3.2 There are errors embedded within the Council's data recording practice that has led to the inflation of completions to date (the recording of G&T pitches as part of HLS data).
- 3.3 There is also a large dose of unrealistic optimism within the Council's trajectory, both in relation to a windfall rate projection but also in relation to site specific trajectory proposals from key sites.
- 3.4 In my opinion the Council's approach is not consistent with relevant Government policy, nor is it realistic, nor credible.
- 3.5 I have identified very significant concerns in relation to plan failure at Tiverton. A very significant problem, which the Council only partially recognise (but they do recognise it). In my opinion the appeal proposals are necessary for the planned delivery from the TEUE to occur.
- 3.6 I have taken a realistic approach that is consistent with my experience in relation to these matters, reflective of the available evidence and consistent with the relevant tests set out in Government policy.

Appendix 1

Tiverton Eastern Urban Extension – Mid Devon Local Plan Review 2013 – 2033 Adopted Policies Map Extract

