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APPEAL BY WADDETON PARK LIMITED

PINS REF.: APP/Y1138/W/22/3313401

LAND AT HARTNOLL FARM, TIVERTON

SUMMARY PROOF OF EVIDENCE OF

ANTONY ASPBURY BA MRTPI

**ON BEHALF OF MID DEVON DISTRICT
COUNCIL**

REVISED

- S1 This is a Summary of the Proof of Evidence of *Antony Aspbury*. Minor amendments have been made to this Summary (in the form of ~~strike throughs~~) in order to reflect certain post-exchange deletions to my main Proof agreed with the Appellant.
- S2 In Section 1.0 (Introduction) of my Proof, I set out my qualifications and experience, my instructions and the scope of my evidence. At 1.3.2 I set out what I consider to be the main spatial planning considerations as follows:
- the relevant provisions of the development plan, and national policy in the NPPF;
 - the housing land supply position and the implications of that specifically for the engagement or not of the ‘tilted balance’;
 - the location of the proposed development and the implications thereof or the proper planning of the area;
 - the adequacy or not of infrastructure to support the Appeal scheme and how any deficit is/is not satisfactorily addressed through any agreed Section 106 Obligation;
 - whether in the current circumstances the ad hoc Application and Appeal process is an appropriate medium for bringing forward a greenfield urban extension of this size.
- S3 At 1.3.4, I explain that the issue of Housing Land Supply is dealt with in the evidence of Mr Beecham and that my evidence addresses the other considerations, save the adequacy of infrastructure etc., which – subject to the final position of the County Council - I expect to be dealt with separately in evidence and at the Inquiry (my paragraph 1.3.5)
- S4 In Section 2.0 (paragraph 2.1, I ‘distil’ the considerations postulated above into three main and three ancillary issues:
- Whether, or not the Council has a 5-year Housing Land Supply and, thus, whether, or not, the ‘tilted balance’ (under footnote 8 of NPPF Policy 11 d)) is engaged;
 - Whether or not the location of the proposed development is acceptable having regard to adopted national and local policies; and,
 - Whether or not there is sufficient infrastructure to support the Appeal Scheme.

and:

- Whether the Appeal Proposal complies/conflicts with the provisions of the development plan and national policy in the NPPF when taken as a whole
- Whether such conflict/compliance is outweighed by other material considerations.
- Whether the Appeal Proposals constitute sustainable development as defined in the NPPF.

S5 Notwithstanding the above, I then suggest that the two *primary* issues at the heart of this case are: first, whether the proposed development would be appropriately and acceptably located and, thus, sustainable; and second, whether the District Council] can demonstrate a 5-year supply of deliverable housing sites.

S6 In Section 3.0, I address the Appeal Site and its surroundings, noting that on a basic factual level has already been described in referenced (CD1 & CD6) documents. However, I then go on to look at the AS *in context*. I highlight the local landscape significance of the eminence of Post Hill as a prominent feature. I then draw attention to the contrast between the ([evolving] *urban*) character and appearance of the land to the *west* of The Hill and the land extending *east* from it, of which the AS forms an obvious integral and indistinguishable part, noting particularly the *openness* and countryside character and appearance thereof. I return to this matter in my Proof (6.0).

S7 In Section 4.0 I identify the relevant provisions of the development plan and policy in the NPPF to this case.. I state that the DP for the purposes of Section 38(6) of the Planning & Compulsory Purchase Act 2004 and Section 70[2] of the Town & Country Planning Act 1990 is The Mid Devon Local Plan 2013 to 2033 (Adopted July 2020) (CD12).

S8 I identify the policies most important for the determination of this Appeal as being:

- S1 – Sustainable Development Priorities
- S2 – Amount and Distribution of Development
- S3 – Meeting Housing Needs

- S4 - Ensuring Housing Delivery
- S14 – Countryside
- TIV1- Eastern Urban Extension

The two following policies are of incidental, but less direct importance.

- TIV2 – Eastern Urban Extension Transport Provision
- TIV5 – Eastern Urban Phasing.

S9 I note that Mr Beecham’s evidence on Housing Land Supply is most relevant to Policies S1 to S4 inclusive, and my evidence addresses the other most important policies, notably the distributional aspect of S2, and S14.

S10 I note (in paragraph 4.3) that on the basis of Mr Beecham’s evidence Policies S1 to S4 can be considered to be up-to-date and relevant and should therefore attract significant weight.

S11 In paragraphs 4.6 to 4.8 inclusive I discuss the spatial strategy of the Local Plan and how Policies S1 and S2 give effect to that strategy and how Policy S14 complements these policies by classifying all land outside the settlement boundaries as ‘countryside’, subject to the development criteria set out in the Policy. In particular, I state that the settlement boundaries and distinction between land within them and that outside them is clearly intended to be clear-cut and determinative and not fluid or permeable. I then put the matter in simple terms, asserting that one has to draw a line somewhere and, having drawn that line, adhere to it, save in exceptional circumstances. To treat such boundaries as flexible and the policy distinctions they encompass as matters to be casually set aside on an ad hoc basis undermines and subverts the Local Plan itself and the plan-making process.

S12 At 4.9 and 4.10 I refer to the recently made Tiverton Neighbourhood Plan as complementing the LP and endorsing its choice of the Tiverton settlement boundary.

- S13 At 4.11 I set out what I consider to be the relevant policies in the NPPF: paragraphs: 7-10 inclusive, 11, 12, 14, 15, 38, 47, 50, 57/58, 81, 85, 104/105, 174b), and 219.
- S14 In Section 5.0 I assess the relevance and application of the policy listed in Section 4.0 to this case and specifically in relation to the question of whether the tilted balance is engaged.
- S15 On the basis of Mr Beecham's evidence and by reference to case law as adduced in paragraph 5.4 of my Proof, I contend that, because the Council *can* demonstrate a satisfactory 5-Year HLS the tilted balance is not engaged in this case. But even were the Inspector to conclude on the evidence that the supply is deficient, especially if only marginally so, he still needs to assess the weight to be given to development plan policies including whether or not they are in substance out-of-date and if so for what reasons. On this basis I invite him to give those policies significant, compelling and therefore determinative weight in this case.
- S16 In Section 6.0 I address one of the two primary issues as to whether the location of the AS is acceptable. In this respect I rely especially on Policy S14 of the LP and highlight its dual roles, both as:
- A strategic locational policy, complementing the positive development allocations in and around the three main settlements and the related definition of the their development boundaries in delivering the spatial strategy; but also,
 - As a countryside 'protection' policy, preserving its open rural character and appearance, which is a role supported by Paragraph 174b) of the NPPF.
- S17 As well as supporting the spatial strategy in purely policy terms, therefore, on the basis of my analysis in Section 6.0, the definition of the area containing the AS as countryside is clearly appropriate on any objective examination of its appearance. Thus, this area demonstrably possesses all the qualities that that term countryside implies, including openness and a rural character, appearance and land uses.

Major development of an extensive urban character - as is proposed in his case - would, thus, be absolutely contrary to Policy 14, because it would be harmful to its intrinsic openness and rural character.

S18 Furthermore, because it is not visually distinguishable and separable from the wider area in which it lies, development of the AS risks setting an undesirable precedent for further unrestricted and uncontrollable sprawl eastwards.

S19 In Section 7.0, I contend that – because of the spatial planning issues it raises - the suitability of the development of the AS should not be established through an ad hoc planning application/appeal, and should be explored only through a comprehensive review of the adopted local plan at an appropriate date in the future.

S20 In Section 8.0 I address as a separate issue whether the Council can demonstrate a % - Year HLS and assert that on the basis of Mr Beecham's evidence, it can – 5.40 years.

S21 Consequently the tilted balance is not engaged.

S22 In Section 9.0, I revisit the issue of whether the development will provide sufficient infrastructure through a Section 106 Obligation and note that this matter was, at the time of writing, still unresolved.

S23 In Section 10, I address three issues:

- the Appellant's claim that the Appeal Proposals would provide transport infrastructure essential to the delivery of the Tiverton EUE, which I dispute;
- ~~The accessibility of the Site by a range of transport modes other than the private motor car – which goes to the question of whether the proposed development would be 'sustainable' and I conclude that it would not be;~~
- The claimed benefits of the development, which I conclude are, at best moderate and not compelling.

S24 Finally, at Section 11.0 I draw my conclusions which are:

S24.1 There is a deliverable 5-Year HLS and the tilted balance is not engaged, therefore;

S24.2 The location of the proposed development is not acceptable having regard to adopted national and local policies and to local conditions on the ground..

S24.3 There is material and substantial conflict with the provisions of the development plan and national policy in the NPPF when taken as a whole and such conflict is not outweighed by other material considerations – on the contrary.

S24.4 The Appeal Proposal would not amount to sustainable development as defined in the NPPF and indeed that it would, on balance, be unsustainable.

S24.5 In the light of these conclusions, I invite the Inspector, in striking the planning balance, to find that the adverse impacts of the proposed development significantly and demonstrably outweigh the benefits of granting permission and, therefore, to dismiss this Appeal.



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