

APPEAL BY WADDETON PARK LTD AGAINST MID DEVON  
DISTRICT COUNCIL'S DECISION TO REFUSE PLANNING  
PERMISSION

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

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**LAND AT HARTNOLLS FARM, TIVERTON**

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SUMMARY ADDITIONAL PROOF OF EVIDENCE OF DAVID  
SEATON

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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## **1. Additional Proof of Evidence**

- 1.1 This Proof of Evidence (PoE) summarises the limited scope of the Council's case and sets out the case for the appellant. It should be read in conjunction with my previous PoE (see below).

*Proofs of evidence:*

- Planning (+summary)
- Housing Supply (+summary)
- Affordable Housing Supply

*Rebuttals:*

- Rebuttal to Anthony Asbury's Proof of Evidence
- Rebuttal to DCC statement
- Rebuttal to Arron Beecham's Proof of Evidence

- 1.2 The fundamental merits of the appeal proposals remain the same as originally proposed.

## **2. Scope of the Council's Case/Common Ground**

- 2.1 This case is marked by the narrowness of the dispute between the parties as set out in the Further Additional Statement of Common Ground (FASoCG).

### **3. The Appellant's Case**

- 3.1 The appellant contends that, when the relevant policies are properly understood, the appeal proposals do accord with the DP. The Appellant's primary case is that there is compliance with all relevant Development Plan policies (including Policy S1(a) and Policy S14, the only policies now alleged to be breached).
- 3.2 Further, even if the Inspector were to find breach of these policies, having regard to the fact that (as agreed) there is no conflict with the objectives that those policies seek to promote and the wide range of policies which the appeal proposal complies with (and indeed advances). The appeal proposals clearly comply with the Development Plan when *read as a whole*. This is the Appellant's alternative case.
- 3.3 However, even if the Inspector were to disagree with this, and find that breach of policies S1(a) and S14 were sufficient to render the proposal in conflict with the development plan as a whole (notwithstanding the lack of any conflict with those policies objectives), then the decision maker is obliged to ask whether material considerations outweigh that breach? In this case the varied and weighty benefits that the scheme would bring forward would clearly outweigh any breach of the DP.

### **B) Assessing The Council's Objection**

- 3.4 The Council's 'in principle' objection to the residential element of the appeal proposals is, in my view, misguided. There is no proper basis to advance such an objection and, even if there was, the Council have plainly failed to balance that against the many benefits of the appeal scheme.

**E) Benefits that outweigh any breach of the DP**

<b>Benefit</b>	<b>Weight</b>
Employment Provision	Very Significant
Renewable Energy linkage	Significant
BNG	Significant
Link Road to TEUE	Very significant
Housing (including affordable and custom build)	Very significant

**F) Conclusions to the Appellant's case**

- 3.5 There is a large dose of unrealistic optimism within the Council's trajectory, specifically in relation to site specific trajectory proposals from key sites.
- 3.6 In my opinion the Council's approach is not consistent with relevant Government policy, nor is it realistic, nor credible.
- 3.7 I have identified very significant concerns in relation to plan failure at Tiverton. This is 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.
- 3.8 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.
- 3.9 Similarly the wider housing strategy of the plan is unlikely to be delivered. There remain very significant impediments to release of land at Cullompton with infrastructure that the Council deem necessary before the occupation of new housing not forecast to start being completed until 2028.
- 3.10 This places a heavy emphasis on delivery from Tiverton.

3.11 In accordance with the Council's evidence (Appendix A(2) Consented Allocations section of Aaron Beacham's PoE) it is agreed that 138 units of allocated supply from the TEUE won't be delivered during the residual plan period.

3.12 I consider this a significant underestimate. In my opinion, as set out at section 8 of my Housing PoE, further, during the initial inquiry, the appellant clearly demonstrated that:

- There is no obligation on the beneficiary of planning permission for part of Area A (CD63(a)) to deliver a road to Area B (at all);
- And that the land released from that outline permission (CD63) to the development industry does not go to the boundary with Area B;
- And that permission pre-dates the LPIR (CD60) and the MM to the MDLP such that the permission does not accord with the modified (and now adopted) DP.

3.13 This is important because, as the LP Inspector accepted

*"the Plan needs to avoid building in hurdles to delivery. As such the Plan needs to make it possible for developers of the major housing allocations to provide accommodation for Gypsies and Travellers and Travelling Show-People off-site"* (LPIR, CD60, paragraph 86)

3.14 This is partly why the residual area of the outline permission (CD63 – and ref. 23/00394/MARM) has not been released to the development industry. Hence the Council's concerns (that are shared by the appellant) in relation to the delivery of an access to serve Area B from Area A (and hence the access solution proposed in the SPD for Area B (CD13)).

3.15 Accordingly I maintain that I very much doubt that the full 550 units (from Area B) would be delivered by 2033. My estimate would be circa 400 (and that may well be too optimistic). The 100 open market units that would be delivered via the appeal proposals (and that will also enable the connection to the Anaerobic Digester at Red Linhay to occur) need to be seen in this

context, thereby enabling compliance with policy DM2 of the DP to occur and the Council's renewable and low carbon energy agenda to be furthered.

3.16 Accordingly, I draw my conclusion that, read as a whole, the appeal proposals are compliant with the DP.

3.17 If the Inspector is not convinced by this argument then the following identified benefits point towards allowing the appeal (particularly bearing in mind that the technical breach of the DP that the Council allege is agreed to produce no actual harm).

3.18 Accordingly, whichever route is followed I conclude that the appeal should be allowed.

#### **4. Issues Raised by Third Parties**

- 4.1 I have read the objections raised by third parties, including those of WCL and Halberton Parish Council. I set out my comments on the points raised by those two parties below.
- 4.2 WCL by their objection have merely demonstrated the problems with delivering area B in accordance with the trajectory upon which the DP relies. Their inability to move matters forwards merely demonstrates the land ownership and technical problems that they face before amenity concerns are considered (and there is no evidence that amenity issues have been considered).
- 4.3 I therefore conclude that the available evidence demonstrates that there is little likelihood of an alternative access proposal to serve Area B being successfully brought forward other than that embodied within the Council's adopted policy position and that the appeal proposals are compliant with that position. Therefore, there can be no reasonable basis to reduce the weight to be accorded to the very significant benefit that the appeal proposals will deliver, particularly when the acknowledged delivery concerns from Area B are factored in to that consideration.

#### **Halberton Parish Council (HPC)**

- 4.4 I have carefully considered the matters raised by HPC in their representations.
- 4.5 Due to this clear misunderstanding of the appeal proposals it appears to me that the concerns raised by HPC are misplaced and are not borne out by the relevant evidence.



## **5. Planning Balance and Conclusion**

- 5.1 In my opinion this is a straightforward case of being cognisant of the Supreme Court's precedent (and in particular Lord Reed's words of wisdom) and reading the DP as a whole. If that is followed then it leads to an inexorable conclusion that the appeal proposals accord with the DP read as a whole (as it must be).
- 5.2 This is, in large part, agreed by the Council. Their objection to the appeal proposals is a technical point (regarding policy S14 as a 'blanket ban' when it is not) that is also reliant upon an over optimistic consideration of housing deliverability that fails to accord with Government policy on the matter, nor the normal practice of Inspectors.
- 5.3 Furthermore, in relation to matters of compliance with/delivering the strategy of the DP the Council have wholly underestimated the importance of the appeal proposals.
- 5.4 There are significant and evidential problems with the delivery of the major allocations at Cullompton due to infrastructure constraints.
- 5.5 There are similar problems at the TEUE.
- 5.6 There is a real danger that lack of delivery at these key locations will simply lead to the grant of permissions at disparate locations (as has clearly happened with employment provision).
- 5.7 The grant of permission of the appeal proposals assists in protecting, and delivering against the strategic objectives of the DP, hence my conclusion that the appeal proposals are in accordance with the plan read as a whole.
- 5.8 Whatever is made of the 3 paths to a decision that I have set out in this PoE the identified, and agreed, benefits of the appeal proposals are significant and, in my opinion, clearly point towards a decision to allow the

appeal. The Council, on the other hand downplay those acknowledged benefits in a misguided attempt to 'defend the town boundary' of Tiverton 'at all costs' and, in part, rely upon the misguided attempts of WCL to 'shoehorn' an access into an unacceptable location in order to try and advance delivery from Area B of the TEUE when proposal in accord with the Council's own published policy on the matter is being brought forward.

5.9 Bearing in mind the absence of any material harm I consider the appellant case to be overwhelming and I respectfully suggest that the appeal proposals are allowed.