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From: Local Plan Review
Subject: FW: Representations on the Local Plan Review Proposed Submission (incorporating proposed modifications),
Attachments: GALA3002 Local Plan Review Proposed Submission Representations January 2....pdf

From: Sarah Griffiths [REDACTED]
Sent: 14 February 2017 09:07
To: Local Plan Review
Subject: Representations on the Local Plan Review Proposed Submission (incorporating proposed modifications),

To Whom it May Concern,

On behalf Gallagher Estates Limited, please find attached representations in response to the Local Plan Review Proposed Submission (incorporating proposed modifications) and associated evidence.

I would be grateful if you confirm receipt of the attached representations.

Kind Regards

Sarah

Sarah Griffiths
Senior Planner

5763/S2/mod
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**Mid Devon Local Plan Review-
Proposed Submission
(incorporating proposed
modifications) Representations**
Representations on behalf of Gallagher
Estates Limited

February 2017

Turley

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Sarah Griffiths

Client
Turley

Our reference
GALA3002

Feb 2017

1. Introduction

- 1.1 These representations have been prepared on behalf of our client, Gallagher Estates Ltd.
- 1.2 They have direct regard to the land that Gallagher Estates Ltd control to the east of the M5, Willand (as shown at **Appendix 1**), which includes the proposed allocation WI1 (Land east of M5, Willand).
- 1.3 The examining Inspector should be aware that that at the time of writing these representations an outline planning application for *“residential development of up to 259 dwellings, with public open space, landscaping, and associated infrastructure with all matters reserved, except the vehicular access from Silver Street”* on our Client's site is currently pending determination (LPA Ref: 16/01811/MOUT).
- 1.4 The planning application submission demonstrates that the site is technically suitable and available for development, and is sustainably located to accommodate new residential development to help meet the housing needs of the District, and assist with addressing the current five year housing land supply shortfall.
- 1.5 These representations respond to the proposed modifications only, as requested in the consultation material. The main points arising from these representation are:
 - Paragraph 158 of the NPPF requires that each local planning authority should ensure that the Local Plan is based on adequate, up-to-date and relevant evidence. However, the evidence base which supports the Local Plan Review is entirely inadequate to support the Council's proposals to robustly demonstrate the Plan is sound.
 - There still remains a distinct lack of justification and proportional evidence to support the housing and employment strategy and distribution.
 - There is concern with regard to the plan making process in relation to key pieces of evidence being available at the correct time to inform and support key policy decisions.
 - The proposed housing requirement figures should be expressed as a minimum figure (i.e. using the words 'at least'), to reflect national planning policy to boost significantly housing supply.
 - It is considered that the over reliance on the three large strategic sites presents a high risk to the delivery of the Plan as a whole. This means that the Plan has not been positively prepared, as it is not based on a sound strategy which will ensure that the objectively assessed development and infrastructure needs will be effectively met.
 - We have serious concerns regarding the deliverability and viability of both of the two Strategic allocations at Cullompton. The Council states within the Plan that they understand that the significant infrastructure constraints to the long term

growth at Cullompton will need to be overcome. However, the Council provides no certainty that these can be overcome through the evidence base or the Plan, and as a consequence puts into question the soundness and deliverability of the Council's strategy and Local Plan as a whole.

- Due to the lack of identified need and consideration of viability implications, the reference to the Nationally Described Space Standards should be removed.
- Our Client's land is available now and has no known site constraints which would affect its deliverability which would assist the Council with current shortfall in the five year housing land supply, which also needs to be demonstrated for the Plan to be sound.

- 1.6 In summary, we consider that the Local Plan Review as currently drafted and supported by its current evidence base is not sound and is not in suitable form to be submitted to the Secretary of State for Examination. The Plan is not positively prepared, justified, effective or consistent with national policy. In this regard, the Council must re-consider the Local Plan Review as currently drafted and prepare further evidence to support and justify a further draft of the Local Plan Review.
- 1.7 The need for the Council to prepare a substantial amount of further evidence and make necessary amendments to the Plan will result in the need to carry out a further round of public consultation.
- 1.8 It should be noted that Turley, on behalf of Gallagher Estates Ltd, have responded to the current CIL consultation. The representations conclude that even with a £0 CIL charge, when appropriate infrastructure costs and consistent methodology are applied to the strategic sites, it will be seen that the delivery of the significant number of housing within the strategic sites are uncertain due to a lack of viability. A copy of those representations is provided at **Appendix 2** and should be read alongside the representations set out in this document.
- 1.9 In addition to the submission of these representations, we request the opportunity to appear at the Examination. We also request to be notified of the following:
 1. The submission of the Local Plan Review for independent examination under section 20 of the Planning and Compulsory Purchase Act 2004 (the Act),
 2. The publication of the recommendations of the person appointed to carry out an independent examination of the Local Plan Review under section 20 of the Act, and
 3. The adoption of the Local Plan Review.

2. Overall Provision of Housing and Employment

Housing

Paragraph 2.1b and 2.2, and Table 4 (Housing Requirement)

- 2.1 The proposed housing requirement in the quoted sections above and throughout the Plan should be expressed as a minimum figure (i.e. using the words 'at least') to reflect national planning policy to boost significantly housing land supply.

Housing Requirement by Area (Table 5)

- 2.2 Table 5 sets out how the revised housing requirement is distributed between the three main towns and the rural areas. As explained later in these representations, the distribution of development across the District still remains to be unclearly justified in relation to location and scale through the Plan and evidence base. As such, in the context of the soundness test, the Plan and its strategy is therefore not justified through proportionate evidence to demonstrate that the most appropriate strategy.

Overall Housing Trajectory (Chart 1) and Housing Forecast (Table 6) 2013-2033

North West Cullompton Housing Trajectory

- 2.3 Table 6 suggests that the strategic allocation of North West Cullompton will start delivering in 2017/2018 and be completed in 2028/29. This is entirely unrealistic and misleading for a number of reasons.

Appropriate Lead in Times

- 2.4 Advice set out within the Planning Practice Guidance (PPG) emphasises that LPA's should ensure that their annual assessments are robust, timely, based on up-to-date evidence, are considerate of associated risks, consider local delivery records and are realistic.
- 2.5 Setting realistic assumptions on lead in times for first completions to come forward will provide the necessary consistent approach required to predict when housing can reasonably expect to deliver.
- 2.6 It is necessary for the Council to appropriately consider and provide evidence to support lead in times. Lead in times should take account of the time taken to:
- prepare, submit and determine an outline planning application, subsequent reserved matters, and discharge of condition applications
 - completion of a s106 agreement
 - the need to purchase the land if the site is optioned or the need to market and sell the land if the site is not owned by a house builder

- completion of any onsite mitigation (for example archaeological investigation, ground contamination , and
- completion of necessary on-site infrastructure.

2.7 It is evident that the Council clearly have not considered the above matters which will impact upon the lead in time for North West Cullompton (along with others). Even if they have this is not justified within the evidence base.

2.8 The Council must produce evidence to reasonably support lead in times and delivery rates to demonstrate deliverability and effectiveness of the proposed allocation.

Lack of Planning Permission or pending Planning Application(s)

2.9 The trajectory, set out in Table 6, states that North West Cullompton will first deliver housing completions in 2017. This suggestion by the Council is not credible given that the land associated with North West Cullompton does not benefit from any form of planning permission or even have a planning application pending for its development.

2.10 The below timeline provides a reasonable basis on which to consider the potential length of time it will take for sites without planning permission and which are technically unconstrained to deliver first unit completions following the submission of an outline planning application.

Milestone	Time Period
Outline Application Lodged	n/a
Resolution to Grant	10 month from submission
Outline Planning Permission (following completion of s106)	16 months from submission
Reserved Matters Lodged	22 months from submission
Reserved Matters Approval	26 months from submission
Start on Site	30 months from submission
Completion of first unit	34 months from submission

2.11 If you were to simply apply the above timeframes to the North West Cullompton trajectory, based upon a submission this year, you would not expect to see a first completion until 2019/2020. As such, the first completions and associated trajectory would need to be put back to reflect the necessary planning process timeframes.

2.12 Whilst the above table provides a helpful starting point, and is likely to be the minimum lead in time for many sites that are expected to pursue an outline planning application, it remains necessary to consider every site on its own merits and in the case of North West Cullompton there are many other factors which need to be taken in to account when considering when you would realistically be able to see first completions.

Reliance on the provision of M5 access improvements

- 2.13 Policy CU6 (North West Cullompton Phasing) requires the “*Provision of M5 access improvements before any dwellings are occupied*”(our emphasis). Furthermore, the delivery of the employment element of the allocation is also dependent upon the provision of the M5 access improvements along with 500 dwellings.
- 2.14 The funding and implementation of the critical M5 access improvements is unclear from the evidence base. Given how critical and essential this piece of infrastructure is to unlocking both strategic and non-strategic allocations at Cullompton (which the Plan is heavily reliant upon), it is highly important to ensure and clearly evidence the required works, how they are to be funded, whether they are deliverable and when they will be delivered. This is echoed in Paragraph 177 of the NPPF.
- 2.15 This much needed information is absent from the evidence base and as such renders the plan unsound as there is no certainty that the allocations at Cullompton (including two of the three strategic allocations) will be deliverable within the Plan period i.e. bringing into question the effectiveness of the Plan.
- 2.16 Notwithstanding the concerns regarding if and when the M5 access improvements can and will be implemented, the evidence base and Plan suggests that the M5 access improvements are very much reliant upon funding from the East Cullompton new settlement, amongst other funding sources. As such, if you were to presume that the Council's trajectory for East Cullompton is correct and the M5 access improvement works are completed prior to first occupation (as required by Policy CU6), then the best case scenario for first completions from North West Cullompton would be in 2024/25.
- 2.17 If the above delivery of the M5 access improvements assumption was to be correct, this would push the trajectory of North West Cullompton back by 7 years. This would result in the whole of North West Cullompton not being completed within the Plan period and based upon the annual completions set out in Table 6, would result in at least 363 dwellings not being completed within the period.
- 2.18 The loss of at least 363 dwellings within the trajectory means that the Council must find other sites to come forward. Our Client's site at Willand is suitable and available to appropriately and effectively assist with this shortfall.

Unrealistic Delivery Rates

- 2.19 Again, PPG makes it clear that it is important for local authorities to make realistic assumptions when putting together trajectories of housing delivery, based on up-to-date and sound evidence, taking account of associated risks and an assessment of local delivery records. Such evidence should be realistic and made publically available to justify the delivery and effectiveness of proposed allocations.
- 2.20 In relation to North West Cullompton we question the annual delivery rates, particularly at those times within the Plan period where it is due to be delivering at the same time as East Cullompton.

- 2.21 In certain years the trajectory suggests that between East and North West Cullompton, 350 dwellings could be delivered on an annual basis.
- 2.22 The Council does not appear to have provided any clear and robust evidence to justify that this level of delivery could be met and sustained at Cullompton as a whole, and it is for the Council to justify this rate of annual completions is achievable.
- 2.23 Reviewing eight of the top ten national housebuilders (by volume), the average number of completions (including both market and affordable housing) per site is 43 units per sales outlet, per annum (as set out in the table below). This excludes Berkeley Homes, who have a London development bias, and Bloor Homes, who are privately owned and do not produce annual reports to shareholders.

House Builder	Source of Information	Number of Completions	Number of Sites (Sales Outlets)	Average No. of Completions/Site
Barratt	Annual Report and Accounts 2016	17,319	365	47
Persimmon	Annual Report and Accounts 2015	14,572	380	38
Taylor Wimpey	Final Trading Statement for 2016	13,881	285	49
Bellway	Annual Report and Accounts 2016	8,721	226	39
Bovis	Annual Report 2015	3,934	102	39
Crest Nicholson	Trading Update November 2016	2,870	47	61
Redrow	Annual Report 2016	4,716	128	37
Galliford Try (Linden Homes)	Annual Report and Financial Statement	3,078	80	38

	2016		
Total	69,091	1,613	43

2.24 To achieve an annual delivery rate of 350 dwellings per annum at Cullompton it would therefore require at least 8 sales outlets at Cullompton to be delivering all at the same time. Given the scale of Cullompton and the associated market, it is considered that this rate of delivery is unrealistic and not achievable.

2.25 The Council on review of the delivery assumptions, based on similar information to the above and a better understanding of the market, will recognise the need to reduce the annual delivery rates, resulting in a reduced level of development to come from North West Cullompton within the Plan period.

Cullompton Town Centre Relief Road

2.26 It is understood from the adopted Local Plan and the limited current evidence base that the delivery of North West Cullompton is reliant upon the delivery of the Town Centre Relief Road. The 'Assessment of Highway Options to Accommodate Potential Developments' Report (v10 August 2014) states at Para.6.4.10:

"The adopted Mid Devon Local Plan proposes the option of an Eastern Relief Road running through the Community Fields between Cullompton and the M5 and is required to accommodate the development proposed in the current plan. This is currently undergoing a Flood Risk Assessment (FRA) as the majority of it is located within the floodplain."

2.27 The adopted Local Plan identifies the constraints upon the originally proposed route, including the proposed route running through a flood plain and the impact on an area of important open space and recreation. It states within the adopted Local Plan that the road was estimated to cost in the region of £10.5 and £10.7 million at that time, where no public funds were available for the construction and as a consequence funding would need to be made through financial contribution by the developers of sites within Cullompton. Alternatively contributions would be collected through CIL once implemented.

2.28 However, we know that CIL has not been implemented and the timing of its implementation is currently unknown. In addition, the current draft charging schedule does not explicitly state that this piece of infrastructure would be funded through CIL. Furthermore Policy CU2 states that North West Cullompton should make financial contribution towards the Relief Road. As such, the funding is presumed to be through financial contributions from developments in Cullompton alone, but predominantly from North West Cullompton. However, the deliverability and funding of the Eastern Relief Road is not evidenced.

2.29 The Local Plan Review now confuses matters relating to the Eastern Relief Road and brings into play a distinct level of ambiguity and uncertainty regarding its deliverability. The Local Plan Review at Paragraph 3.117 states that the East Relief Road could potentially be either on the east or west side of the M5. This indicates a clear lack of

understanding of the full infrastructure requirements to deliver the planned growth at Cullompton.

2.30 Paragraph 3.143a of the Local Plan Review says that:

"If the final route of the road is located on the western side of the motorway, there is the potential for impact on the settings of nearby listed buildings and the Cullompton conservation area. The extent of any impact will depend on the road's design and elevation above the flood plain, and therefore the final scheme will need to incorporate design solutions which mitigate such impacts. The site also lies in an area known to have been occupied since at least the Roman era, the area potentially containing archaeological deposits from this period onwards. Archaeological investigation and mitigation will therefore be required."

2.31 The Local Plan Review states that if the Town Centre Relief Road were to be to the east of the M5, it would require the strengthening and/or construction of new bridges over the M5, railway and watercourses. This would add significant cost to the road. The cost of the road would have to be met by financial contributions from developers of sites in the town.

2.32 As stated above, the Council has no clear direction or understanding on the improvements to M5 junction 28. Amongst the evidence base there are suggestions that the works *"may or may not include Eastern Relief Road depending on final option chosen"*.

2.33 All of the above extracts clearly demonstrate the uncertainty around the delivery of the needed Town Centre Relief Road.

2.34 Policy CU2 states that North West Cullompton is required to make financial contributions towards the Town Centre Relief Road. The adopted Local Plan suggests that the delivery of North West Cullompton is reliant upon the delivery of the Town Centre Relief Road. However, Policy CU6 (North West Cullompton Phasing) does not list the delivery of the Relief Road and it appears that the final scheme and cost is unknown and not included within an up-to-date transport or viability evidence base.

2.35 The Council recognises it is necessary to ensure that financial contributions are reasonable so as not to render development unviable. This is highlighted by Paragraph 173 of the NPPF which says that *"the sites and the scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened"*. In this regard, it is nonsensical that the Council recognises this need but does not seek to sufficiently and fully grapple with this to ensure that North West Cullompton and other allocations are deliverable and sound.

2.36 Given that the Town Centre Relief Road is set out in the adopted Local Plan (Policy AL/CU/14) and the current basic evidence base suggests that it is required, it should be included within Policy CU6 and clear evidence should be presented to demonstrate it is deliverable, along with an expected timeframe for its delivery. Once again, if this is a critical piece of infrastructure to the delivery of North West Cullompton and the growth of Cullompton more generally, it is crucial that the details are fully understood as it could

affect the delivery timing of North Cullompton and its viability, along with the effectiveness of the Plan as a whole.

- 2.37 Taking account of the above, there are serious concerns that the Plan is unsound based upon the provision of the M5 access improvements and the Town Centre Relief Road, and its impact upon North West Cullompton's trajectory. The trajectory for North West Cullompton needs to be reviewed extremely carefully along with undertaking further viability and deliverability work on the M5 access improvements and the Town Centre Relief Roads (amongst the other infrastructure requirements) to present a realistic trajectory for North West Cullompton to understand the full implications on the effectiveness, and therefore soundness, on the Plan as a whole.

East Cullompton Housing Trajectory

- 2.38 Policy CU12 (East Cullompton Phasing) requires the "*provision of the first phase of comprehensive M5 access improvements before any dwellings are occupied*", similar to the North West Cullompton allocation.
- 2.39 As with the trajectory of North West Cullompton, it is fundamental to understand in more detail when and how the M5 access improvement works are going to be implemented as the delivery of East Cullompton is wholly reliant upon those essential infrastructure works, amongst others.
- 2.40 The current trajectory for East Cullompton begins in 2024/2025 and shows completions of 1,750 dwellings (not 2,100 as detailed in the total column of Table 6) by the last year of the plan period, (2032/33). Any slippage in the commencement of development or a slower delivery rate will obviously result in less than 1,750 dwellings at East Cullompton from being completed within the plan period and jeopardise the effectiveness of the Plan as a whole.
- 2.41 As stated above, we question whether the annual delivery rates of East Cullompton are realistic, particularly through the years where it suggests that it will be delivering at the same time as North West Cullompton. It is considered that completion rates of 200-250 dwellings per annum from East Cullompton and 350 dwellings per annum from Cullompton (including North West and East Cullompton) are not realistic. A lower rate of delivery is likely to be achieved and this would result in East Cullompton taking a longer timeframe to deliver, pushing further completions outside of the Plan period. This would put the Plan at risk of not meeting the housing and employment needs of the District.
- 2.42 In summary, we consider that the delivery of East Cullompton will face similar problems to North West Cullompton given its reliance upon the M5 access improvement works (amongst other infrastructure requirements), and the timing and deliverability of those works, and the associated knock on effects. In addition, we consider that the annual delivery rates are not realistic and a reduced delivery rate would have negative implications upon the effectiveness and soundness of the Plan as a whole as the required level of development will not be completed within the Plan period.

Ware Park and Footlands (Policy CU14)

- 2.43 The above proposed allocation is another example where its delivery is reliant upon the M5 access improvements, and where there is insufficient evidence to demonstrate how and if the M5 works will be delivered within the Plan period.

Chart 1: Overall Housing Trajectory

- 2.44 Once the Council has reflected upon the points raised in these representations and produced further evidence which will result in amendments to the trajectory, Chart 1 will also need updating.

Five year Housing Land Supply (Para 2.7) and Table 8: Housing Supply in Five Year Tranches

- 2.45 The points raised with regards to the unrealistic and unreliable trajectories of the proposed allocations at Cullompton alone will have significant implications for achieving and maintaining a five year supply of housing to meet the Council's housing target.
- 2.46 The examining Inspector of the Local Plan Review should be made aware of Uffculme Road, Uffculme appeal decision (PINS Ref: APP/Y1138/W/15/3025120) and conclusions drawn by that Inspector with regards to five year housing land supply and the sites included within the trajectory at that time (Appeal Decision provided at **Appendix 3**). At this time the Council acknowledge that they do not have a five year housing land supply. However, based on the above comments, it is clear that the Council will continue to struggle to achieve a five year housing land supply given the delay in the delivery of the strategic allocations to which the Council heavily rely upon.
- 2.47 The Council and the appointed Inspector will also note that the Uffculme Inspector concluded that the Council has a record of persistent under delivery of housing. As such, the Council is therefore required to demonstrate five years worth of housing against the housing requirement, plus a 20% buffer.
- 2.48 It is imperative that the Council demonstrates that the Local Plan can deliver the up-to-date housing requirements and the deliverability of sites to meet a 5 year supply prior to the adoption of a Local Plan to ensure that the Plan is positively prepared and effective.
- 2.49 This emphasises the need for the Council to appropriately review the lead-in times, lapse rates and delivery rates set out in the Council's five year housing calculation and ensure that there is a sufficient amount of available and deliverable sites included within the housing trajectory. This should be realistic and fully evidenced .
- 2.50 In summary, the Council is unable to demonstrate a five year housing land supply and does not provide any compelling evidence to suggest that they will be able to do so through the Plan period, which is required by the PPG.
- 2.51 The evidence indicates that the Council needs to allocate more short term sites to bridge the shortfall and effectively get the Council back on track with meeting their housing target.
- 2.52 To help bridge the shortfall, Gallagher Estates site at Willand is available and suitable to deliver 259 dwellings. A planning application is pending which demonstrates its suitability and availability for development (LPA Ref: 16/01811/MOUT)

Policy S2: Amount and Distribution of Development

Housing Requirement

- 2.53 As stated above, the proposed housing requirement should be expressed as a minimum figure (i.e. using the words 'at least') to reflect national planning policy to boost significantly housing land supply.

Housing Provision and Distribution

Absence of justification for the housing strategy and distribution

- 2.54 There still remains a distinct lack of clear justification in the Local Plan Review and supporting evidence base as to how the proposed housing and employment development has been distributed across the settlements. In this context, the Plan and its associated strategy is not justified by proportionate evidence and as a consequence not sound.
- 2.55 As stated in our previous representations, the Local Plan should be focussing development in the most sustainable locations and main settlements to maximise opportunities to achieve sustainable development and balanced growth, in line with government guidance and the proposed Local Plan Objectives.
- 2.56 There is still no clear assessment of the towns and villages within the District, including analysis of retail, employment, population, community facilities, travel and relationship data, to determine the most sustainable and appropriate locations for development.
- 2.57 It is our view that further work should be provided to support and fully justify the Council's settlement hierarchy to direct the appropriate distribution of housing to the most sustainable settlements and locations.

Distribution

- 2.58 The Council's revised housing requirement maintains the same distribution across the different areas of the District as set out in the last consultation, with Cullompton becoming the main strategic focus of new development across the Plan period, followed by Tiverton and Crediton as the secondary focus. This is demonstrated in the table below:

Location	Requirement	Remainder
Tiverton	2,358 (30%)	1,352
Cullompton	3,930 (50%)	3,234
Crediton	786 (10%)	434
Rural Areas	786 (10%)	-96
Total	7,860	4,924

- 2.59 We would like reiterate our support towards the principle of delivering a level of development at other settlements in the District (in addition to the three main towns), as

set out in the Spatial Strategy. However, it is considered that a smaller percentage of development should be directed to Cullompton within the Plan period due to the significant concerns relating to the substantial infrastructure investment and works required in and around the town, which will impact upon the deliverability of the scale of development proposed at Cullompton.

- 2.60 As a consequence of the above and the acknowledged constraints by the Council at Crediton and Tiverton affecting their ability to accommodate further growth, a higher percentage of growth should be directed to Rural Areas, and more particularly to those sustainable settlements within the Rural Areas (such as Willand).

Cullompton

- 2.61 As expressed through these representations, we have significant concerns with regard to the Council's over reliance on the two main strategic sites at Cullompton to deliver the remaining residual housing requirement which are wholly dependent upon key pieces of infrastructure, which haven't been demonstrated to be deliverable in a timely manner. The two Cullompton strategic sites equates to 74% of the remaining housing requirement (3650 dwellings set against the remaining residual requirement of 4,924 dwellings), which shows how significant their delayed delivery could have in relation to meeting the housing and employed needs of the District.

Over reliance on large strategic allocations

- 2.62 The Mid Devon Local Plan Review still relies heavily on three large strategic sites to deliver a substantial amount of dwellings (4,700 dwellings) across the Plan period (60% of the overall proposed housing requirement (7,860 dwellings) and 96% of the remaining residual housing requirement (4,924 dwellings)).
- 2.63 The over reliance on these significant three strategic allocation is of great concern due to their inherent long lead in times and the viability issues which they face due to the high infrastructure costs, as it risks the delivery of the Plan as a whole and the maintenance of a five year housing land supply.
- 2.64 Two of three strategic allocations (Eastern Tiverton and North West Cullompton) have been allocations since January 2011, both of which still do not benefit from planning permission, let alone started delivering much needed housing. Eastern Tiverton is the subject of a planning application but North West Cullompton is not.
- 2.65 The delay in delivery of large strategic sites is common place and it is demonstrated through these representations that there are great concerns over the delivery of Cullompton strategic sites.
- 2.66 It is considered that the over reliance on the three large strategic sites and the risk to the delivery of the Plan as a whole, means that the Plan has not been positively prepared as it's not based on a sound strategy which will ensure that the objectively assessed development and infrastructure needs will be effectively met.

Policy S3: Meeting Housing Needs

- 2.67 As stated above, the proposed housing requirement should be expressed as a minimum figure (i.e. using the words 'at least') to reflect national planning policy to boost significantly housing land supply.

Policy S4: Ensuring Housing Delivery

- 2.68 The Council on reflection of the points raised through these representations in relation to the trajectory of North West Cullompton and East Cullompton and following the completion of the directed further work, will as a consequence need to review whether the action levels would be able to be met. With the highlighted set back of the two Cullompton strategic allocations trajectories, it is likely that these action levels will not be met.

Cullompton

Policy S11: Cullompton

- 2.69 The proposed modifications seek to increase the housing and employment delivery figures at Cullompton. Based upon significant concerns with regard to the associated infrastructure required to unlock growth at Cullompton, can be expected that the proposed level of growth at Cullompton will not be achieved within the Plan period. As such, the proposed level of growth at Cullompton is not positively prepared, justified or effective to ensure the objectively assessed development and infrastructure requirements will be met. As such, the figure should be suitably amended to reflect a realistic and deliverable level of development supported by an appropriate and robust evidence base.

3. Site Allocations

Table 10: Overall development need and land supply

- 3.1 The proposed modifications to Table 10 includes amendments to the uncommitted housing allocations to 2033. Based upon significant concerns with regard to the associated infrastructure requirements, it can be expected that the proposed level of growth associated with the uncommitted Cullompton allocations will not be achieved within the Plan period. As such, the uncommitted housing allocations figure would need to be amended to reflect a more realistic view of the delivery of the proposed allocations within the Plan period.

Cullompton

Table 15: Development supply in Cullompton, Table 16: Housing allocations and Table 17: Allocations for commercial development

- 3.2 The proposed modifications to the above Tables reflect the amendments to the Council's suggest trajectories for the allocations at Cullompton. However, as highlighted through these representations, the delivery of the housing and employment allocations will be adversely affected by the delayed delivery of the associated significant infrastructure, amongst other factors. The consequence of the delayed delivery of the strategic allocations means that the quoted figures are incorrect.
- 3.3 Following the preparation of further significant evidence to explore the full extent of the infrastructure requirements and viability of the strategic allocations, along with realistic annual delivery rates, the quoted figures should be reviewed.

Policy CU1: North West Cullompton

- 3.4 Due to the requirement of the provision of the M5 access improvements before any occupations and the expected need for the Town Centre Relief Road to be provided, along with the lack of planning permission and the ambitious annual delivery rates, it is our view that the suggested trajectory (set out in Table 6) is unrealistic. The revised trajectory, taking into account a proper and proportional evidence base, will result in the allocation not being completed within the Plan period. As a consequence, the quoted figure within the modified policy will not be achievable within the Plan period and should be amended to reflect a more realistic and justified figure.

Policy CU2: North West Cullompton Transport Provision

- 3.5 Policy CU2 sets out the transport infrastructure requirements to be provided and funded by the development of North West Cullompton.
- 3.6 There is a distinct lack of evidence which details the extent and costs of the listed required infrastructure works and how these have been considered in reviewing the viability and deliverability of North West Cullompton. This is a significant shortcoming of the Plan and renders the plan unsound as it is not appropriately justified and demonstrated to be effective, based upon sound and proportional evidence.

- 3.7 The Policy requires contributions towards the Town Centre Relief Road but yet the route and its deliverability has not been fully explored or committed to by the Council. As a result, the Council is unable to realise the extent of contributions towards this piece of infrastructure from North West Cullompton, or understand the implications on its delivery trajectory.
- 3.8 Similarly, Policy CU2 sets out the requirement for financial contributions towards capacity improvements at Junction 28 M5 but as stated in the supportive text and the evidence base, the Council is not committed to one solution and has not provided the evidence to demonstrate it is deliverable nor the timings for delivery.
- 3.9 As such, the extent of the contributions to be made from the North West Cullompton allocation along with the requirement to deliver other pieces of key infrastructure is not fully known, and as a consequence the implication upon North West Cullompton's delivery is unknown. This is not a sound position.

Policy CU6: North West Cullompton Phasing

- 3.10 Amendments to Policy CU6 see the introduction of the restrictive requirement of the *"Provision of M5 access improvements before any dwellings are occupied and thereafter broadly in step with development"* (our emphasis).
- 3.11 The requirement for the provision of the M5 access improvements before any dwellings are occupied is very much dependent upon other allocations and sourcing of funding from elsewhere. The exact extent of the works to improve the M5 access and how that will be delivered on the ground and financially is unknown, and as a consequence the timing of those works remains unknown.
- 3.12 It's entirely inappropriate for the Council to put forward a strategic allocation where its delivery is dependent upon a critically important piece of infrastructure which has no clearly defined design and that hasn't been demonstrated to be deliverable. If it was found to be undeliverable or to take a significantly long time to come forward, it will jeopardise the delivery of the allocation and the Plan as a whole. Proportional evidence must be prepared to demonstrate the works are deliverable and what level of funding is required from the North West Cullompton allocation to fully understand the impacts upon the allocation's viability.
- 3.13 The evidence and adopted Local Plan states that that the Town Centre Relief Road is an integral part of the development strategy for Cullompton to relieve traffic through the town centre and to improve air quality. It appears that North West Cullompton is reliant upon the Town Centre Relief Road coming forward. However, its delivery is not included within Policy CU6. The Council within the Local Plan Review evidence base must clearly explain the need, the location, the cost, the funding, deliverability and timing of implementation of the Relief Road to fully understand the implications upon all Cullompton allocations. If the North West Cullompton is reliant upon its delivery, this should be included within Policy CU6.

Policy CU7: East Cullompton

- 3.14 Due to the requirement of the provision of the M5 access improvements before any occupations (as set out in Policy CU12) and the potential need to accommodate the Town Centre Relief Road, along with the general lead in times associated with strategic sites of this scale, it can be expected that the suggested trajectory (set out in Table 6) is unrealistic.
- 3.15 There is an immediate need for the Council to prepare a significant amount of further evidence to appropriately justify the allocation and demonstrate it is viable and deliverable. Following the completion of this work, the Council will need to revisit the estimated trajectory and the quoted figure within modified Policy CU7 to identify a quantum of development which is realistically delivers within the Plan period.

4. Development Management Policies

Residential Development

Policy DM12: Housing Standards

- 4.1 The modifications to Policy DM12 introduces the reference to the Nationally Described Space Standard.
- 4.2 The Planning Practice Guidance (at Paragraph: 002 Reference ID: 56-002-20160519) states that local planning authorities have the option to set the nationally described space standard. However, it goes on to state that local planning authorities need to gather evidence to determine whether there is a need for additional standards in their area, and justify setting appropriate policies in their Local Plans.
- 4.3 Furthermore, the Planning Practice Guidance states (at Paragraph: 003 Reference ID: 56-003-20150327) that local planning authorities should consider the impact of using these standards as part of their Local Plan viability assessment
- 4.4 The Council has not provided the sufficient and clear evidence base to justify the need for additional standards or considered the impact of using these standards as part of their Local Plan viability assessment. As such, this approach is unsound and the inclusion of the reference to the Nationally Described Space Standard should be removed.

Appendix 1: Site Location Plan



Warning:
This drawing is for illustrative purposes only and should not be used for any construction or estimation purposes.

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This drawing is for illustrative purposes only and should not be used for any construction or estimation purposes.

DO NOT SCALE DRAWINGS

No liability or responsibility is accepted arising from reliance upon the information contained within this drawing.

Site Boundary - TBC 12.0ha / 29.85 acres

Client:
Gallagher Estates
Project:
Land East of the M5, Willand
Drawing:
Red Line Site Location Plan

Drawing Number: GALA307, 1000, Red Line Plan		
Project Number: GALA 307	Station: RMA	Scale: 1:2500 (A3)
Date: 18.02.2016	Revision: 01	

Turley

**Appendix 2: Representations in response to
the revised CIL Draft Charging
Schedule and associated
documents consultation
(January/February 2017)**

**Mid-Devon District Council
Viability Update and Review Final
Report August 2016 and
Community Infrastructure Levy
and Local Plan Viability
Assessment: Final Report June
2014 Representations**

Representations on behalf Gallagher
Estates Limited (Warwick)

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Contact
Steve Smith MRICS

8 February 2017

Ref: GALA3002

1. Introduction

Purpose

- 1.1 These representations are submitted on behalf of Gallagher Estates Limited (Warwick) (hereafter "Gallagher Estates"). The representations have been prepared by Turley based on its experience of preparing viability appraisals in support of a wide range of development proposals throughout the UK.
- 1.2 This document sets out Gallagher Estates' representations on the "Mid-Devon District Council Viability Update and Review Final Report August 2016" (hereafter "VUR"), and the "Viability Assessment: Community Infrastructure Levy and Local Plan Final Report June 2014" (hereafter "VA") on which the 2016 report is based. Both documents have been produced by Dixon Searle Partnership (hereafter "DSP").
- 1.3 The representations within this document relate to the Community Infrastructure Levy Draft Charging Schedule December 2016, with representations in respect of the Local Plan made separately.
- 1.4 The Community Infrastructure Levy Draft Charging Schedule was issued for consultation on 3 January 2017. The VUR states that it has been provided "*to inform the Council's ongoing work with regard to updating viability work previously carried out to inform the policies of the emerging Local Plan and CIL draft Charging Schedule*". The VUR also states "*the high level viability testing is intended to review previous work undertaken and update it in light of changes to local and national policies*". The previous work undertaken is referenced within the VUR as including "*a viability assessment: community infrastructure levy and Local Plan finalised in June 2014 and a subsequent self-build, public open space and Building Regulations Part M Level 2 (Access) Viability Addendum in December 2014*".
- 1.5 The 2014 VA is the principal viability document which has been referenced and updated within the VUR. The VA is regarded as forming part of the evidence base for the assessment of CIL.
- 1.6 The assessment of an appropriate level of CIL charge is of particular importance to Gallagher Estates, as it has potential to impact on development viability in an area where they have land interests.
- 1.7 In addition to the submission of these representations, we request the opportunity to appear at the Examination. We also request to be notified at 10th Floor, 1 New York Street, Manchester M1 4HD of the following:
 - that the draft charging schedule has been submitted to the examiner in accordance with section 212 of Planning Act 2008;
 - the publication of the recommendations of the examiner and the reasons for those recommendations; and
 - the approval of the charging schedule by the charging authority.

Structure

1.8 This representation document is structured as follows:

- Chapter 1: Introduction
- Chapter 2: Representations – provides a summary of Gallagher Estates' representations to the VUR and VA which underpin the proposed level of CIL charge as set out in the draft Charging Schedule.

2. Representations

- 2.1 This chapter provides a summary of the key details of Gallagher Estates' representations to the Draft Charging Schedule and the underpinning evidence as set out within the VUR and VA under a series of thematic headings taken from the VUR and VA.
- 2.2 Gallagher Estates is concerned that a number of the assumptions adopted within the VUR and VA are inappropriate, un-evidenced, or inconsistently applied, with infrastructure/Site Prep and S106 costs being of particular concern in respect of the strategic site assessments within the VA, which have not been updated within the VUR.
- 2.3 As a result, Gallagher Estates regard the ARV as failing to comply with guidance or national policy as it does not align with the requirements of the NPPF, which demands that '*Local Plans should present visions for an area in the context of an understanding of local economic conditions and market realities*'. The VUR and VA form the assessment of viability in Mid-Devon for the purpose of setting CIL charges and Local Plan Policies, and Gallagher Estates regard the viability evidence base as unsound.

Summary details

Viability Update and Review Final Report August 2016 (VUR)

- 2.4 Adopting paragraph numbering from the VUR, the main areas of representation are set out below:
- Policy and Guidance (including changes to policy)**
- 2.5 Paragraph 1.2.5 states that Planning Practice Guidance ("PPG") reiterates the messages set out within the NPPF, including that "*Plan Makers should consider the range of costs on development...local standards, local policies and community infrastructure levy...Their cumulative cost should not cause development types or strategic sites to be unviable*".
- 2.6 Gallagher Estates is disappointed to note that the VUR provides no reassessment of the three strategic sites which are located in Mid-Devon. Gallagher Estates regard this as inappropriate.
- 2.7 The strategic sites fall within Charging Zone 1, for which the draft Charging Schedule proposes a £0 charge per square metre. The principles and methodology adopted within the 2014 VA have not been reviewed or referenced within the VUR and Gallagher Estates regard the up to date assessment of the strategic sites within Charging Zone 1 as fundamental to ensuring that all development within Mid-Devon is assessed with the benefit of an up to date evidence base.
- 2.8 Gallagher Estates request that full updated viability testing of the strategic sites is carried out in line with current values, construction costs, infrastructure costs and delivery profiles to ensure that the large scale development opportunities are viable and

deliverable within the plan period, and, in particular, capable of supporting the significant infrastructure costs relating to development in Cullompton.

Methodology

Approach

- 2.9 At paragraph 2.1.1, it is stated that the VUR *"applies the same principals, methodology and many of the same assumptions as used for the Council's earlier viability work. This further report, therefore, does not repeat the methodology and the assumptions...and this viability update should be read alongside and in the context of the previous evidence base as listed above"*. The evidence base is not listed above Paragraph 2.1.1, but we understand it to relate primarily to the 2014 VA, upon which we will provide comments below.
- 2.10 Paragraph 2.1.7 discusses the need to create sufficient value in order for land to come forward for development. If insufficient land value is available, it is stated that housing targets will be put at risk (for both open market and affordable).
- 2.11 Gallagher Estates regard this as an important issue, but also wish to reference the likelihood that housing targets are unlikely to be met if development is fettered by the imposition of highways infrastructure costs which have not been appropriately assessed or tested. This has particular reference to sites in the Cullompton area, where a significant level of residential and employment schemes are restricted by the requirement to provide contributions to highways works including transport improvements to M5 junction 28.
- 2.12 Such works are set out within Mid-Devon District Council's "Draft Infrastructure Plan, Regulation 1-3 List and Section 106 Policy December 2016" at a cost of £50-55 million.

Mid-Devon District Council – Impact of Changes to National Policy

Access to and Use of Buildings

- 2.13 Paragraph 2.2.11 states that costs have been adopted in relation to proposed policy for 30% of new dwellings on site of 10 or more dwellings to meet the Part M4 (2) Requirements. The costs have been drawn from cost analyses produced by EC Harris dating from 2014.
- 2.14 Gallagher Estates regard the use of historic cost data as an inappropriate and unsound basis which should be reviewed and updated.

Starter Homes and Custom Build

- 2.15 The proposed requirement to provide self-build plots within residential developments is referenced, but the impact of such provision is not tested within the VUR. The VUR proposes that *"custom-build has the potential to be a sufficiently profitable activity so as not to prove a significant drag on overall site viability"*.
- 2.16 Gallagher Estates regard this broad brush approach as inappropriate, with no testing carried out to prove the negative/positive impact of self-build upon development viability.

- 2.17 Gallagher Estates request that further testing be carried out to prove the impact of a requirement to provide self-build plots within residential developments.

Other Updated Assumptions

- 2.18 Paragraph 2.3.1 states that changes to property values, build costs, other development costs and affordable housing revenue have been considered with VUR Appendix III, providing details of the property market for Mid-Devon, along with information in respect of the commercial property market.
- 2.19 In terms of the residential market review, a number of sources of property values are provided, including new build asking prices, with values £psm calculated for many of the units on estimated unit sizes, which Gallagher Estates regard as inappropriate as new build house sizes will be openly available from each developer.
- 2.20 Paragraph 4.3 states *"for current high level viability review purposes DSP has applied increases of 12% (based on land registry data for Mid-Devon) to that previous research as illustrated in tables 1(a) and 1(b)"*. Therefore, it appears that comparable data has been provided, but not utilised for the assessment of value uplift since the June 2014 VA.
- 2.21 Gallagher Estates note that paragraph 3.4 states that the June 2016 Land Registry House Price Index Report states *"for Mid-Devon District overall: annual change in average house prices 7.56% (positive)"*. No evidence is provided to support the adopted 12% increase in property values.
- 2.22 Gallagher Estates request that appropriate Land Registry evidence is sourced and provided to support the proposed residential values. Comparable sales data should also be analysed in comparison to the 2014. Comparables should be based on achieved sales data rather than asking prices to appropriately assess achievable values.
- 2.23 Paragraph 2.3.2 states *"in carrying out this update, we have taken a selection of scheme types from the existing studies. These are shown in Appendix 1 and reflect the types of sites which could come forward for residential development across the district"*.
- 2.24 Gallagher Estates regard the omission of strategic sites from the VUR reassessment as inappropriate. From the wording of the VUR it can be assumed that DSP do not regard the strategic sites as being likely to come forward for residential development during the Plan period.
- 2.25 Paragraph 2.3.3 states that 10% has been deducted from the values applied to affordable rented properties to account for the changes to the rent structure from 2016-2020.
- 2.26 Gallagher Estates regard the acknowledgement of a reduction in affordable housing values as appropriate, but regard the lack of evidence to support the reduction as inappropriate.
- 2.27 Paragraph 2.3.4 states that intermediate tenure of affordable housing would be in the form of shared ownership based on a *"conservative assumption of 60% of market value"*.

This is all as per the existing evidence base". The 2014 VA provides no evidence to support the adoption of an intermediate tenure value equating to 60% of market value. Gallagher Estates is of the opinion that all values adopted within the viability evidence base must be appropriately evidenced and reasoned.

- 2.28 Paragraph 2.3.6 states that *"the RICS building cost information surface data ("BCIS") indicates that build costs have increased by appropriately 12% on average. We have used the latest BCIS figures in carrying out this viability update."* Upon reviewing the build costs analysis at paragraph 5.1, it is stated that *"this data indicates an increase of approximately 15% in build costs during the intervening period for residential development"*. No reason is provided for the adoption of construction cost inflation at below the stated BCIS level.
- 2.29 The adoption of an appropriate construction cost is, of course, a crucial element of viability assessment and Gallagher Estates require that the costs uplift be adopted in line with the evidence which is provided and stated, rather than a reduced figure.
- 2.30 Paragraph 2.3.9 proposes an increase in the level of residual S106 costs from £1,000 to £3,000 per dwelling for the schemes assessed within the VUR. The cost increase is stated to be based on *"DSP's experience"* but no further information is provided, and no reference made to the potential cost impact of infrastructure works set out in the Draft Infrastructure Plan.
- 2.31 Gallagher Estates request the provision of further methodology and evidence to ensure that the modelled S106 contributions for the non-strategic sites are reasonable and appropriate.
- 2.32 A higher level of £10,000 S106 costs was adopted for strategic sites within the 2014 VA, but no consideration or commentary is provided within the VUR to explain why DSP's experience of increased s106 costs should not apply to strategic sites.
- 2.33 Gallagher Estates regard the appropriate assessment of strategic site viability as essential. Methodology and evidence must be provided to support the S106 costs adopted for strategic sites.
- 2.34 At Paragraph 3.1.1 it is stated that the results of the viability testing exercises are attached as appendices, however, without copies of the appraisals from which the results have been drawn, it is not possible to properly assess or review the process upon which the results have been derived.
- 2.35 Gallagher Estates is of the opinion that copies of the development appraisals should be appended, as was the case with the 2014 VA.
- 2.36 Paragraph 3.2.2 determines that on sites which are subject to affordable housing provision, the 2016 testing shows a *"relative improvement in the result of between approximately 15 and 20% depending on site typology"*. It is not clear what *"result"* is referred to within this paragraph.
- 2.37 No information is provided to explain why the 2016 appraisals have improved viability in comparison with the 2014 appraisals. The improvement would appear to relate to the

removal of significant costs relating to sustainable design/renewable energy/life time homes. New costs have been included within the 2016 VUR, such as increased S106 and building regulation compliance/Open Space Strategy.

- 2.38 It is noted that finance rate adopted as reduced from 6.5% to 6%, but this is not referenced in the report and no justification is provided for this cost reduction.
- 2.39 Average unit sizes have increased within the 2016 VUR in comparison to the 2014 VA. As a result, for all but one unit type, the average unit prices adopted within the VUR are well in excess of the 12% inflation which is stated within the VUR as shown in the table below:

Unit type	Increase in unit type value adopted in 2016 compared with 2014
1 bed flat	24.44%
2 bed flat	30.55%
2 bed house	12%
3 bed house	17.9%
4 bed house	16.5%

- 2.40 Whilst build costs will also increase in line with the larger floor areas adopted, it is obvious that the scale of development being assessed varies between the 2014 VA and the 2016 VUR, and a direct comparison of the results, for example the statement of a 15/20% improvement in the result is misleading and Gallagher Estates is of the opinion that the stated improvement should be appropriately explained.

2014 VA

- 2.41 Many of the assumptions adopted in the VA have been referenced above, and comments in respect of the VA will be limited to the assumptions and methodology adopted in respect of the assessment of the three strategic sites in the Mid-Devon area.
- 2.42 The three strategic sites form a very important part of the proposed housing delivery within the Mid-Devon Local Plan Review. They are proposed to provide a total of 4,350 units within the Plan period, set against the 7,860 housing requirement.
- 2.43 The two strategic sites in Cullompton are also important as proposed Plan policies state that they will need to contribute to a number of highways and transport costs including transport improvements at Junction 28 M5, Town Centre Relief Road, traffic management measures on Willand Road and Tiverton Road, the provision of a road linking Tiverton Road to Willand Road along with transport provision to ensure appropriate accessibility for all modes, and provision of appropriate highway improvements on roads around the development.

Other Planning Obligations – Section 106 ('s.106') Costs

- 2.44 Very significant costs of £50 - £55m are set out in the Mid-Devon Draft Infrastructure Plan December 2016 in respect of the "transport improvements to alleviate M5 junction 28 may or may not include Eastern Relief road depending on final option chosen".

"DCC/MDDC/HA" are proposed, as delivery partners and possible sources of funding are stated as *"Funded by developer contributions/LEP/HCA funding"*.

- 2.45 No evidence is provided within the Mid-Devon Draft Infrastructure Plan to support the estimated costs and it can be seen that the level of required infrastructure has not been finalised, for example, the uncertainty relating to the provision of the Eastern Relief Road. Funding requirements from developer contributions is referenced, but no indication of the anticipated costs are provided.
- 2.46 Discussion of the costs relating to opening up and facilitating strategic sites is limited to paragraphs 2.10.3 - 2.10.6 within the VA.
- 2.47 Paragraph 2.10.3 makes reference to the *"increased levels of infrastructure (though S106) assuming the requirement for on-site provision in these cases"* (Strategic sites).
- 2.48 Paragraph 2.10.3 makes reference to the infrastructure requirements relating to the Tiverton Easton Urban Extension ("EUE") totalling £14.8 million, equating to just under £10,000 per unit for S106 for the assumed 1500 unit scheme.
- 2.49 Paragraph 2.10.5 states that *"costs were not available for sites CU1, CU11 and J27"* and a base level of £10,000 per unit S106 costs is stated to have been adopted in line with the EUE assumption, albeit subject to sensitivity testing.
- 2.50 Gallagher Estates regard the adoption of costs from the Tiverton site as inappropriate and irrelevant to the Cullompton strategic sites. Each location has its own infrastructure requirements, and whilst comparison between locations may be useful, it is essential that location specific requirements and costs are referenced, evidenced and assessed to ensure that CIL and Local Plan policies are based on sound reasoning and location specific factors.
- 2.51 The tables set out at paragraph 3.3.21 show the results of residual appraisals carried out on the CU1 and CU11/J27 sites, adopting 1,000 and 3,000 dwellings respectively.
- 2.52 The residual land value which is deemed sufficient to bring forward the CU1 development equates to £347,816 per hectare on the basis of a 25% affordable housing provision and on the same basis, the CU11 residual value equates to £332,779 per hectare.
- 2.53 The impact of an increase in the S106 assumption is significant, as shown within the VA sensitivity testing. The CU1 residual value reduces to £54,735 per hectare with S106 costs increased to £20,000 per unit, and the CU11 residual land value reduces to £113,966 per hectare on the same basis. Such values would offer a minimal increase above existing use value.
- 2.54 Gallagher Estates regard such values as insufficient for a landowner to release land for development.
- 2.55 The total costs set out within the Mid-Devon Draft Infrastructure Plan relating to Cullompton are estimated at £95.58 - £100.58m. The source/s of the estimated costings within the Draft Infrastructure Plan are not stated, and details of the

methodology and source/s must be provided to ensure that CIL and the Local Plan are assessed on an appropriate basis.

- 2.56 No indication has been provided in respect of the amount of total S106 contributions which are expected to come forward from development in Cullompton, or from other sources of funding.
- 2.57 The Draft Infrastructure Plan states that the majority of the infrastructure interventions will be funded from developer contributions, although education infrastructure will be partially funded by CIL. The level of funding available from LEP or HCA in respect of the M5 junction 28 works is not known.
- 2.58 Without further information, it can be assumed that developer contributions are required to cover all infrastructure works in Cullompton (excluding those costs which will be part funded by CIL). These costs total £80.68 - £85.68 million.
- 2.59 Page 25 of the Local Plan Review includes a delivery profile for developments in Cullompton. Total housing delivery is stated at 3,864 units. East Cullompton housing delivery is stated as 2,100 units, whereas the delivery profile totals 1,750 units. The total delivery is correct, being calculated with 1,750 units from East Cullompton.
- 2.60 Based on the above total costs as set out within the Draft Infrastructure Plan, the total infrastructure works equate to £22,960 - £24,382 per unit depending on whether the M5 junction 28 works & Eastern Relief Road costs are assessed at £50 or £55 million.
- 2.61 Gallagher Estates is of the strong opinion that an appropriate level of infrastructure costs should be adopted within any viability testing of the strategic sites to ensure that these areas, which form a fundamental part of housing delivery within Mid-Devon, are capable of coming forward for development on a viable basis. On the basis of the S106 costs set out above in paragraph 2.58, the strategic sites would not be viable or deliverable.
- 2.62 Paragraph 2.10.6 states *"in addition to the already included uplift to build costs for external works, an additional £300,000 per hectare was included for site opening up costs in the case of these strategic site scenarios"*.
- 2.63 It is noted that VA Appendix 1 Development Appraisal Assumptions states *"site prep and survey costs"* at £300,000 per gross hectare for strategic scale development.
- 2.64 No further detail is provided within the VA to explain the costs which are included within the site opening up or site prep/survey costs. Gallagher Estates is of the opinion that such an allowance is appropriate to cover the exceptional/abnormal costs associated with enabling strategic sites to come forward for development. It is not clear, however, how these costs have been applied within the development appraisals which are attached to the VA at Appendix IIa.
- 2.65 The 1,500 unit residential greenfield scheme ("TIV1") 25% affordable housing – 0 CIL appraisal does not include any S106 contributions and infrastructure costs equate to only £251,639 per hectare based on the gross site area of 122 hectares as stated within paragraph 2.10.7 of the VA assumption breakdown. The appraisal adopts an

infrastructure cost of £30,700,000 with no S106 contributions. At £300,000 per hectare, infrastructure costs should be included at £36.6m and S106 costs of £15m (£10,000 per plot) should be added to align with the stated VA methodology.

- 2.66 It is also noted that the “*Other Construction*” costs in respect of CfSH, Lifetime homes and renewables are included at £1,500 per unit, which are lower than the costs as set out within the VA assumption breakdown.
- 2.67 The 1,000 unit residential greenfield scheme (“CU1”) 25% affordable housing – 0 CIL does include S106 contributions at £10,000 per unit, but the infrastructure costs equate to only £116,663 per hectare based on the gross site area of 78.4 hectares as stated within the VA. The appraisal adopts an infrastructure cost of £9,146,340. At £300,000 per hectare, infrastructure costs should be included at £23.52m.
- 2.68 “*Other Construction*” costs are all included at £1,000 per unit, well below the figures include within the VA assumption breakdown.
- 2.69 The 3,000 unit residential greenfield scheme (CU11/J27) 25% affordable housing – 0 CIL appraisal, includes S106 at £10,000 per unit, but infrastructure costs equate to only £144,000 per hectare based on the gross site area of 200 hectares as set out in the VA. The appraisal adopts an infrastructure cost of £28.8m. At £300,000 per hectare, infrastructure costs should be included at £60m.
- 2.70 “*Other Construction*” costs are included at £3,000 per unit, in excess of the costs included within the assumption table of the VA.
- 2.71 No detail is provided within the VA in respect of the cash flow modelling adopted in respect of development costs including S106 other than a reference at paragraph 3.9.8 that ‘*we observe the impact that the particular timing of planning obligations have.*’ Clear guidance should be provided in respect of the adopted methodology in line with NPPF requirements.
- 2.72 Gallagher Estates is of the opinion that the assumptions adopted within the viability assessment of the strategic sites are fundamentally flawed, being inconsistent and not in line with the approach as set out within the VA and accompanying assumptions schedule.
- 2.73 An inconsistent approach is not appropriate for the assessment for sites when the results of the appraisals are compared in a direct manner in order to establish policy or viable levels of CIL contributions. Gallagher Estates require that the methodology and approach to the assessment of strategic sites must be reviewed and amended to ensure that the results of the viability assessments can be reviewed with an appropriate level of certainty. As currently presented, Gallagher Estates regard the approach adopted as unsound and inappropriate.

Conclusion

- 2.74 At VA paragraph 3.3.2, reference is made to the Council having work ongoing “*on the further building and updating of its infrastructure plan (“IDP”) understanding and this will need to be factored into the rolling review type process which we envisage, usually*

carried out with the joint working with the service providers and any larger site promoters".

- 2.75 The strategic sites have not been reassessed within the VUR, and the estimated costs for the Cullompton strategic sites as set out within the Draft Infrastructure Plan have not been referenced or included within the VUR methodology.
- 2.76 The adoption of appropriate infrastructure costs is especially pertinent in respect of the strategic sites, which will be expected to bear the majority of the proposed infrastructure costs.
- 2.77 Within the VA, the S106 costs adopted for the Cullompton sites are inappropriately based on estimated costs for the Tiverton Eastern Urban Extension. No evidence is provided to support the Tiverton costs, and Gallagher Estates regard the Tiverton infrastructure costs as irrelevant and an unsound source for setting cost assumptions relating to the Cullompton sites.
- 2.78 Gallagher Estates regard it as essential that cost estimates are defined and evidenced.
- 2.79 Gallagher Estates is of the opinion that even with a £0 CIL charge, when appropriate infrastructure costs and consistent methodology are applied to the strategic sites (Cullompton in particular), it will be seen that the delivery of the significant number of housing units within the strategic sites are uncertain due to a lack of viability.

Turley Office
10th Floor
1 New York Street
Manchester
M1 4HD



Appeal Decision

Inquiry held between 2 February and 5 February 2016

Site visit made on 5 February 2016

by Robert Parker BSc (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 11 April 2016

Appeal Ref: APP/Y1138/W/15/3025120

Uffculme Road, Uffculme, Devon

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Messrs Persey and Harding against the decision of Mid Devon District Council.
 - The application Ref 15/00108/MOUT, dated 24 January 2015, was refused by notice dated 23 April 2015.
 - The development proposed is outline application for up to 60 dwellings with access onto Uffculme Road, with all other matters reserved for future consideration.
-

Decision

1. The appeal is allowed and planning permission is granted for outline application for up to 60 dwellings with access onto Uffculme Road, with all other matters reserved for future consideration at Land West of Harvesters, Uffculme Road, Uffculme, Devon in accordance with the terms of the application, Ref 15/00108/MOUT, dated 24 January 2015, subject to the conditions set out in the attached schedule.

Procedural Matters

2. The application was submitted in outline, with only the means of access to be determined at this stage. I have dealt with the appeal on that basis, treating the layout plan as illustrative.
3. The above site address is taken from the application form. However, a more precise description would be Land West of Harvesters, Uffculme Road, Uffculme, Devon. This is the address I have used in my formal decision.
4. A draft agreement under Section 106 of the Town and Country Planning Act 1990 (S106) was submitted in advance of the Inquiry and its terms were discussed during proceedings. An executed copy of the S106 was supplied after the event closed¹. The deed includes obligations relating to affordable housing, education contributions, a Travel Plan and the provision and maintenance of public open space and a sustainable urban drainage system (SUDS) within the appeal site.
5. Prior to the Inquiry the Council confirmed that it was retracting parts of its evidence relating to the walking distance/route to services in the village and the impact of the proposal on the rural character of the area. My decision takes account of this altered stance.

¹ S106 dated 18 February 2016

**Appendix 3: Uffculme Road, Uffculme
appeal decision (PINS Ref:
APP/Y1138/W/15/3025120)**

Main Issue

6. The main issue in this case is whether, having regard to the development plan, the National Planning Policy Framework, the housing land supply of the Council and the scale/location of the development, the appeal scheme would constitute a sustainable form of development.

Reasons

7. The appeal site is situated on the western fringes of Uffculme. It measures some 3.49 hectares and comprises an agricultural field together with part of the rear garden belonging to the property known as Harvesters. The field has a frontage onto Uffculme Road from which access would be taken. The southern boundary is demarcated by the River Culme, the flood plain for which extends across part of the site.

Development plan

8. The starting point for any assessment must be the development plan. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise.
9. The development plan in Mid Devon comprises three documents: Core Strategy 2026 (adopted 2007) (CS), Allocations and Infrastructure Development Plan Document (AIDPD) (adopted 2010) and the Local Plan Part 3: Development management policies (adopted 2013).
10. The appeal site is located outside of the settlement limits identified for Uffculme. It therefore lies in the countryside for the purposes of interpreting planning policy. Policy COR 18 of the CS states that development outside the settlements will be strictly controlled, enhancing the character, appearance and biodiversity of the countryside while promoting sustainable diversification of the rural economy. The proposal would not fall into any of the categories of development which the Policy finds to be permissible in the countryside.
11. Policy COR 17 of the CS identifies Uffculme as a settlement with some local facilities and employment and access to public transport. According to the policy, residential development will be limited to minor proposals within the defined settlement limits and to allocations for affordable housing meeting a local need.
12. It is common ground that the proposal would conflict with Policies COR 17 and COR 18. The parties further agree that those policies are relevant to the supply of housing. The case for the appellants is based on the premise that the policies are out-of-date and also that the local planning authority is unable to identify a five-year supply of deliverable housing sites. The Council contends that it is able to demonstrate the requisite supply and argues that the proposal should be rejected on the grounds that it conflicts with the CS and would, in any event, be unsustainable due to its location and scale.

The housing requirement

13. The CS and AIDPD were both adopted prior to publication of the National Planning Policy Framework (the Framework). Paragraph 215 of the latter states that due weight must be given to relevant policies in existing plans according to their degree of consistency with the Framework.

14. Paragraph 47 of the Framework makes clear that local planning authorities should use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs (FOAN) for market and affordable housing in the housing market area (HMA) as far as is consistent with the policies set out in the Framework.
15. A housing requirement for Mid Devon is set out in Policy COR 3 of the CS. This makes provision for approximately 6800 dwellings between 1st April 2006 and 31st March 2026. The policy states that delivery will be phased as follows: 390 dwellings per year over the period 2006–2016 and 290 dwellings per year between 2016 and 2026.
16. The Planning Practice Guidance² (PPG) advises that housing requirement figures in up-to-date adopted Local Plans should be used as the starting point for calculating five-year housing supply. It confirms that considerable weight should be given to the housing requirement figures in adopted Local Plans, which have successfully passed through the examination process, unless significant new evidence comes to light. However, the guidance warns that evidence which dates back several years, such as that drawn from revoked regional strategies, may not adequately reflect current needs.
17. It seems to me that this scenario is directly relevant here. Notwithstanding their existence as part of an adopted development plan, the housing requirement figures within Policy COR 3 are outdated. They have been formulated using a 20 year old evidence base and have been influenced by policy factors. As such, they do not equate to the FOAN in the HMA as required by the Framework. Neither can the figures be used as a proxy pending the outcome of the emerging Local Plan process. This has been made clear by the courts³.
18. In my opinion, Policy COR 3 is inconsistent with paragraph 47 of the Framework and its objective to boost significantly the supply of housing. I therefore attach limited weight to the policy.
19. The PPG⁴ advises that where evidence in Local Plans has become outdated and policies in emerging plans are not yet capable of carrying sufficient weight, information provided in the latest full assessment of housing needs should be considered. But the weight given to these assessments should take account of the fact they have not been tested or moderated against relevant constraints.
20. The Council is in the process of carrying out a Local Plan Review (LPR). This is proposing a housing delivery rate of 360 dwellings per annum over the period 2013-2033. However, the document has not yet been submitted for examination and there remain significant unresolved objections in relation to key housing issues. For this reason, the emerging plan carries very limited weight.
21. Part of the evidence base for the LPR includes a Strategic Housing Market Assessment⁵ (SHMA) which has been prepared for the Exeter HMA. This sets out figures for objectively assessed need, expressed as ranges, for the constituent local authorities over the period 2013-2033. For Mid Devon the housing need is estimated at between 359 and 381 dwellings per annum, with a mid-point of 370.

² Reference ID: 3-030-20140306

³ Hunston Properties Ltd v St Albans CDC and SoS CLG [2013] EWCA

⁴ Reference ID: 3-030-20140306

⁵ Final Report 2014/15

22. It was put to me that the latter figure “sense checks” the CS and validates its housing requirement. However, I am not persuaded by this argument. The figures have not been derived in the same manner and they serve different purposes. As such they are not directly comparable. It was not the objective of the SHMA to analyse the housing requirement between 2006 and 2013. Moreover, its mid-point figure is 80 dwellings per annum higher than that identified in Policy COR 3 for the period beyond 2016. This is a significant difference.
23. I note that the SHMA was accepted by the examining Inspector for the New East Devon Local Plan. However, it has not been formally tested in the Mid Devon context and therefore its figures must be treated with some caution. Nevertheless, it is more up-to-date than the development plan and in my judgement it is the best available evidence for the purposes of this appeal. For this reason I consider that it could be an appropriate basis for informing the FOAN from 2013 onwards.
24. At this point in time, it is feasible that the housing need for the next five year period may be in the region of 1850 dwellings to which must be added any shortfall and a buffer.

The shortfall

25. The Council considers that any shortfall in the delivery of dwellings since the beginning of the plan period should be calculated by comparing completions over that period against a housing requirement calculated using the annual average across the whole plan period – a figure of 340 dwellings per annum. It argues that this would be consistent with the AIDPD, the SHLAA⁶ Panel approach and its own monitoring practices.
26. The interpretation of policy is an objective issue and in my view the meaning of Policy COR 3 is clear. The policy is unequivocal in splitting housing provision over the plan period into two discrete phases with a different rate of delivery for each.
27. The local planning authority pursued the argument that there is conflict between Policy COR 3 of the CS and Policy AL/DE/1 of the AIDPD and that this should be resolved in favour of the latter policy, having regard to Section 38(5) of the Planning and Compulsory Purchase Act 2004⁷. However, it seems to me that Policy AL/DE/1 is serving an altogether different purpose to Policy COR 3. It is essentially a monitoring policy which defines trigger levels for action, by reference to dwelling completion numbers. The policy does not seek to redefine the housing requirement or alter the phasing of delivery. In my judgement therefore, there is no conflict between policies.
28. I accept that there are references to the 340 figure within Policy COR 12 of the CS and also within supporting text. However, these are expressed as annual averages and in my view they do not alter in any way the explicit phasing provision set out within Policy COR 3.
29. Having regard to my conclusions above, I consider that, for the purposes of calculating the shortfall, the housing requirement for the period 1st April 2006 to

⁶ Strategic Housing Land Availability Assessment

⁷ This states that if to any extent a policy contained in a development plan for an area conflicts with another policy in the development plan the conflict must be resolved in favour of the policy which is contained in the last document.

31st March 2015 should comprise seven years at 390 dwellings per annum, followed by two years at 370 dwellings per annum. This equates to 3470 units.

30. There is no dispute that completions over this period equate to 2942. The shortfall is therefore 528 dwellings. The parties are agreed that any shortfall should be spread across the next five year period using the Sedgefield method. I concur on the basis that this approach would be consistent with advice set out in the PPG and the objective of the Framework to boost significantly the supply of housing.

The buffer

31. The Framework states that local planning authorities should add a buffer of 5% to the land needed to meet the five year housing requirement. Where there has been a record of persistent under delivery of housing the buffer should be increased to 20% to provide a realistic prospect of achieving the planned supply. The buffer is not in addition to the housing requirement but rather moves it forward from later in the plan period to ensure choice and competition in the market for land.
32. The PPG advises that the approach to identifying whether there has been a persistent under delivery of housing involves questions of judgement. This is likely to be more robust if a longer term view is taken, since it is likely to take into account peaks and troughs of the housing market cycle.
33. The Council has supplied historic completion figures going back several decades. These can be compared against the development plan requirements which were prevailing at the time⁸. The evidence indicates that since 1995/96, completions have exceeded the relevant policy requirement on only five occasions.
34. The 20 year average of 356 units per annum further illustrates the extent to which the authority has failed to deliver the level of housing required to meet its development plan targets – figures which as I have already found are policy constrained and therefore a potential under-estimate of the actual housing need.
35. I accept that the recent dip in completions is a likely result of economic recession, and this reflects the position nationally. I also acknowledge the delays in bringing forward urban extensions for Tiverton and Cullompton and the pro-active approach to housing supply now being taken by the Council. However, I must make a judgement informed by past delivery rates.
36. For the above reasons I consider that a 20% buffer should be applied. The parties agree that the buffer should also be applied to any shortfall. This seems logical and I have no reason to adopt a different approach.

Supply contribution from sites

37. It is common ground that the five year land supply should be calculated using a base date of 1st April 2015. The written evidence on behalf of the local planning authority originally projected a five year delivery of 2198 dwellings. However, this figure was increased following a cabinet decision to release the

⁸ Devon Structure Plan First Review 1995-2011 – 450 dwellings per annum over the period 1995–2001
Devon Structure Plan 2001 to 2016: 'A Sustainable Strategy for Devon' – 390 dwellings per annum over the period 2001–2016.

Pedlars Pool contingency site⁹ and a number of other sites which are proposed for allocation in the emerging Local Plan. Together, these are projected to deliver 151 dwellings within the next five years.

38. During the Inquiry the Council provided a spreadsheet summarising the latest supply position. This took account of site specific information from agents/ developers for some sites. It also included a further batch of proposed allocations (estimated to deliver 110 units) from the emerging Local Plan. These would bring the overall supply figure to 2540 dwellings – as compared to the appellants' figure of 2032.
39. The respective land supply positions were explored by means of a round table discussion. The Council has adopted build-out rates taken from the SHLAA Methodology. The appellants raised no objections to this approach and I agree that they are a reasonable basis on which to make an assessment.
40. The largest individual sites in dispute are the urban extensions for Tiverton East and North West Cullompton. The Council considers that these sites can deliver 399 dwellings within the five year period, whereas the appellants predict 300.
41. Starting with East Tiverton, an outline planning permission exists for 330 dwellings and I was told that adoption of a Design Guide for this area is imminent. Another part of the site has a committee resolution to grant permission for 700 dwellings subject to the completion of a Section 106 agreement. A signed agreement was expected before the end of March 2016.
42. That said, there is some evidence to suggest that the developer for the 330 unit scheme is yet to acquire the site, notwithstanding the agreement in principle for Mid Devon District Council to buy the affordable element. There is a need to obtain reserved matters approval and discharge conditions on the outline permission. Significantly, this includes a condition regarding design principles, which could impact on the timescale for submission of reserved matters. The 700 dwelling scheme will have similar issues. Accordingly, there is doubt in my mind over the ability of this site to begin delivering as early as predicted. In my judgement, the trajectory for this site should be pushed back by 12 months.
43. The North West Cullompton site is further behind. The Master Plan is due for adoption shortly and the first planning applications are expected in the spring, with delivery projected towards the end of the 2017/18 monitoring year. I heard that two of the three parcels of land have been put forward by promoters and therefore commencement of development will be dependent upon disposal of those sites to a developer. This could affect delivery timescales. However, the Council has adopted a suitably cautious approach in relation to the number of units within the five year supply and on balance I am inclined to accept the trajectory put forward.
44. One of the key differences between the parties is in relation to the inclusion of sites which are proposed for allocation in the emerging Local Plan. The Council's view is that these sites should be included on the basis of the lack of objection. The appellants, on the other hand, contend that there is no certainty regarding delivery and therefore the sites should not count towards the supply figure.

⁹ Identified for potential release within Policy AL/DE/1 of the AIDPD.

45. I was told that there have already been pre-application discussions regarding several of the sites¹⁰. However, this is no certainty of planning permission being granted, particularly in view of the viability issues identified in respect of at least two of the schemes. These sites (totalling 58 units) should be deducted from the supply.
46. As regards Barn Park, Crediton, no decision has yet been made by Devon County Council in respect of whether to apply for planning permission or dispose of the site to a developer. There is an in-built assumption here that the local authority will be keen to secure the capital receipts from land sale having put forward the site within the SHLAA. However, there can be no reasonable certainty that the site will deliver 20 dwellings within the five year period.
47. I understand that Court Orchard, Newton St Cyres has a resolution to grant planning permission for 25 units subject to completion of a Section 106 agreement. From what I heard, the legal agreement is well advanced and there is a reasonable likelihood that the development will go ahead. However, it will be dependent upon the construction of a new primary school and there is no compelling evidence to give me confidence that the projected completion date of spring/summer 2017 will be met. This leads me to question the timing of the housing element.
48. The remainder of sites identified (referred to at the Inquiry as the '110 sites') are predominantly 'greenfield'. The Council explained that they were the subject of a varying number of objections. In its view, these objections are unlikely to preclude the sites from coming forward and on this basis it considers that they should be included within the supply. Notwithstanding this, it has applied a discount to reflect the uncertainty involved. Only 110 out of a total of 253 dwellings are being included within the figures for deliverable supply.
49. The appellants expressed significant concern regarding this approach and I concur. The absence of objection to individual site allocations does not prevent an examining Inspector from raising wider issues relating to, for example, the development strategy or site selection methodology. For this reason, these sites cannot be relied upon to deliver housing within the five year period.
50. A footnote to paragraph 47 of the Framework explains that to be considered deliverable, sites should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years and in particular that development of the site is viable. In my judgement it is questionable whether these criteria are met in relation to sites which lack planning permission and which also fail to comply with an adopted development plan. Therefore, these sites should be discounted from the supply figures.
51. The appellants have sought to challenge the Council's methodology in relation to windfall sites. However, it seems to me that the allowance made for such sites is reasonable, having regard to evidence of past trends. Whilst I acknowledge the concern that future windfalls may not come forward at the same rate, the assumptions included in the Council's figures are conservative. I am therefore content for the allowance of 158 dwellings to remain.

¹⁰ Old Abattoir, Copplestone; Hunters Hill, Culmstock; South of Broadlands, Thorverton; and Linhay Close, Culmstock

Conclusions on housing land supply

52. Based on the above, I consider that the Council's latest predicted five year housing supply figure is overstated. However, I have also found some of the appellants' views to be unduly pessimistic. To my mind a more realistic supply will lie somewhere in the middle. Taking a figure of around 2300 dwellings, which follows from my findings above, this would give rise to a deliverable supply of approximately 4 years. Even using the Council's preferred figure the supply would increase to only 4.5 years.
53. Using the housing figures set out in Policy COR 3 would yield a total five year requirement for 1550 units¹¹ and a backlog of 568. With the 20% buffer applied the overall requirement would be 2542 dwellings. Assuming a realistic supply figure of around 2300 units, the deliverable supply would be in the region of 4.5 years. Therefore even in this scenario the Council would fall short of the requisite five-years.
54. It therefore follows that, even if I revert to the development plan policy figures, a five-year supply of deliverable housing land cannot be demonstrated. This is clearly a snapshot of the current situation based upon the evidence presented for this particular appeal.

Considerations of scale/location

55. I have found that Policy COR 3 is inconsistent with paragraph 47 of the Framework on the basis that it fails to identify, and plan for, the FOAN. In addition, the Council cannot demonstrate a five-year supply of deliverable housing sites, either measured against the CS or the SHMA. Paragraph 49 of the Framework states that in such circumstances, relevant development plan policies for the supply of housing should not be considered up-to-date. Thus, Policies COR 3, COR 17 and COR 18 of the CS are all out of-date. I therefore attach these policies, and the settlement limits upon which they rely, limited weight.
56. Consequently, paragraph 14 of the Framework is engaged. This states that where the development plan is absent, silent or relevant policies are out-of-date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or specific policies in the Framework indicate development should be restricted.
57. At the heart of the Framework is the presumption in favour of sustainable development. There are three dimensions to this: economic, social and environmental. The roles are mutually dependent and should be jointly sought to achieve sustainable development.
58. The proposal is for development on a greenfield site at the edge of the village. This in itself is not necessarily harmful. The District is reliant upon such sites to meet its housing needs and there must be an acceptance that this will result in the loss of some agricultural land on the fringes of settlements. In this instance, the Council has not raised any substantive concerns in relation to countryside encroachment or the effect of the proposed development on the character and appearance of the area. Moreover, it has not identified any

¹¹ Comprising one year at 390 dwellings and four years at 290 dwellings.

environmental harm that cannot be mitigated by planning condition. Based on the information before me and my observations during the site visit I have no reason to take a different view.

59. The Council's principal concern is in relation to the scale of the development. It considers the number of dwellings being proposed to be excessive and contrary to its overarching strategy, and that of the Framework, to direct development to the most sustainable locations.
60. Uffculme has a wide range of facilities, including two shops (one of which contains a Post Office), a pair of public houses, hot food takeaway, doctor's surgery, community hall and playing fields, pre-school and primary school. Comparatively speaking, it is better served than the other villages listed in Policy COR 17 and is the only one to have its own secondary school and dedicated library¹².
61. In my view, the appeal site is within an acceptable and safe walking distance of those services and facilities. There are some employment opportunities within the village itself and a number of business parks¹³ within a short cycle or drive. Two of those business parks are in the process of expanding.
62. It would be unrealistic to expect the village to achieve self-containment. Nevertheless, in relative terms and in a rural context, this is a sustainable location for development. Residents may choose to travel further afield for leisure, shopping or commuting purposes. However, there are opportunities to use sustainable transport modes and villagers have a real choice about how they travel. There are bus services to Tiverton, Cullompton, Taunton and Exeter and the timings of these would be suitable for the daily journey to work. Moreover, the Langlands and Mid Devon Business Parks are both on bus routes. To encourage public transport use, the development would provide new bus stops immediately outside the appeal site.
63. Tiverton Parkway station provides access to the mainline rail service and this is within cycling range along a recognised cycle route. A proportion of residents will almost certainly prefer to drive, but even in that scenario the journey would be reasonably short. I noted that Uffculme is closer to Tiverton Parkway station than Tiverton itself so comparatively it is no less sustainable insofar as distance to the rail network is concerned.
64. The appellants did not seek to argue that the development would be 'minor' in the context of Policy COR 17. Self evidently, it would be of a more significant scale. Nevertheless, in my view the proposal would not be disproportionate to the size of Uffculme. The village contains an estimated 1043 households and a scheme of 60 dwellings would represent a relatively modest 6% increase on top of this.
65. Paragraph 55 of the Framework states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. The PPG¹⁴ advises that a thriving rural community in a living, working countryside depends, in part, on retaining local services and community facilities. Rural housing is essential to ensure viable use of these local facilities.

¹² Other settlements listed within Policy COR 17 have a mobile library service

¹³ Langlands Business Park, Hitchcocks Business Park and Mid Devon Business Park

¹⁴ Reference ID: 50-001-20140306

66. Having regard to the above, I am not persuaded that the proposal would be inherently unsustainable, either by virtue of its scale or location. It would bring social benefits in terms of delivering much needed housing against a background of historic undersupply and an absence of a five-year supply of deliverable sites. This carries considerable weight in the overall planning balance.
67. The proposal would also deliver up to 21 affordable dwellings which equates to 35% of the total number of units. Given the level of need for affordable housing in the District, this would constitute another significant social benefit of granting planning permission. I give weight to the fact that policy requirements alone will not be sufficient to meet the identified level of need¹⁵.
68. The Framework places great emphasis on the need for economic growth. The proposal would create or sustain employment during the construction phase and there would be further benefits through increased spending in local business arising from additional residents in the village.
69. Drawing matters together on this issue, neither the scale nor location of the development would render the scheme unacceptable. The proposal would bring forward a number of social and economic benefits with no demonstrable environmental harm.

Other Matters

70. I am referred to the fact that the site has been 'rejected' for development as part of the LPR. However, for the reasons explained above, the emerging plan can be attached very limited weight at this stage.
71. Local residents have raised concerns regarding highway safety and the impact of traffic generated by the development. However, in my view the scheme would not generate a significant level of additional traffic in comparison with the status quo. The new access would provide satisfactory visibility and the 30mph limit would be extended across the site frontage.
72. I am told that there has been at least one fatality on this section of road. I do not know the causal factors leading to this incident. Nevertheless, there is no compelling evidence before me to clearly demonstrate that the scheme would result in highway safety issues or congestion from increased traffic volumes. Accordingly, I have no reason to disagree with the assessment of the Highway Authority that the proposal would be acceptable.
73. Concerns have also been raised about flooding. The southern part of the site lies within the floodplain for the River Culm. However, the illustrative layout plan demonstrates that development can be confined to Flood Zone 1 (Low Risk). The Environment Agency does not object to the development and nothing in the evidence before me persuades me to take a different view.
74. There is no firm evidence to support the assertion that the doctor's surgery would be unable to cope with the extra population. The Education Authority has confirmed that the primary school has capacity and the development would make a financial contribution to mitigate its effect upon the secondary school. As such, there are no grounds to dismiss the appeal for reasons relating to the impact upon local facilities.

¹⁵ Paragraph 11.1.14, SHMA

75. At the Inquiry I heard from one local resident who had a particular concern about the loss of agricultural land. This is a factor to which I have had regard, but it is not one which I can give great weight in this instance. The Council did not seek to argue that the proposal would compromise the best and most versatile agricultural land and, as I have already mentioned, the District is reliant upon the release of 'greenfield' sites in order to meet its need for housing. The delivery of new homes is a key policy objective and this would outweigh any limited harm arising from the development of farmland in this case.
76. Whilst I have no doubt that adjacent residents will experience some disturbance during the construction phase, the effects would be temporary and there is no reason to believe that they would be particularly severe in this case. Effects can be mitigated by imposing a condition to require the submission of a Construction Management Plan. There is no substantive evidence to suggest that neighbours would experience unacceptable levels of noise once the dwellings are occupied. The layout of the scheme would be a reserved matter in any event.
77. I can see no reason why foul drainage to the mains sewer would cause contamination or pollution. South West Water has raised no objection to the proposal and a condition can be used to ensure that no dwelling is occupied until it has been demonstrated that there is sufficient capacity in the public foul sewage network.
78. No substantive evidence has been put forward to support the concerns regarding the effect on wildlife. Surveys have identified the presence of bats but activity levels were low and the proposal would retain existing linear hedgebank features and in-field trees. Furthermore, the watercourse and pond corridor would provide a buffer to the development and planting would present the opportunity for ecological enhancement. Landscaping would be addressed at the reserved matters stage.
79. I am aware that land within the curtilage of Harvesters has been the subject of a previous appeal in relation to a proposal for two dwellings. The Inspector in that case commented that woodland provides an important and attractive natural feature defining the end of the village and functioning as an appropriate settlement boundary. Whilst I have no reason to disagree with that observation, it was made in a different context. In the current appeal, the Council is not contending that there would be material harm to the character or appearance of the area and I agree.
80. Concerns are raised regarding the linear 'ribbon' nature of development and the erosion of the rural setting between the villages of Uffculme and Willand. However, the development would not materially close the gap between the settlements and they would each retain their individual identity.
81. My attention is drawn to other refusals of planning permission locally. However, I have not been provided with details of those cases and therefore I cannot determine whether there are any parallels with the appeal proposal. I have therefore determined the case on its own merits.

Planning Obligations

82. The affordable housing obligations respond to identified needs within the District and are supported by Policy AL/DE/3 of the AIDPD which applies a target of 35% affordable housing on relevant sites. The scheme would make

this level of provision and as such it would be policy compliant. The S106 gives the Council control over the size and tenure mix to ensure that the affordable housing meets local needs.

83. The education contributions are also justified given the fact that Uffculme School is over capacity. The monies would be used to provide secondary school facilities required as a result of the development. This would accord with Policy AL/IN/5 of the AIDPD and the methodology contained within the Devon County Council publication 'Education Section 106 Infrastructure Approach' (2013). The Council has confirmed that the contribution would be compliant with the pooling restrictions introduced under Regulation 123(3) of the Community Infrastructure Levy Regulations 2010.
84. The requirement for an on-site open space scheme responds to Policy AL/IN/3 of the AIDPD which requires new housing development to provide at least 60 square metres of equipped and landscaped public open space per market dwelling or an off-site contribution. I concur with the Council's assessment that on-site provision would be preferable in this instance.
85. There is also a planning obligation to secure the ongoing management and maintenance of the public open space. This would extend to the SUDS. In my view, such provisions are justified and would ensure that the areas remain fit for purpose.
86. In addition, the S106 would require the implementation, monitoring and review of a Travel Plan to be first agreed with the County Council. This would accord with the sustainability objectives of the Framework and as such it is a benefit which I have weighed in the balance.
87. Overall, the obligations within the S106 are necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. Therefore, they meet the tests within CIL Regulation 122. I have taken them into account in the decision. I consider that the conditionality provisions set out in Paragraph 2.5 of the agreement are satisfied and that the obligations should become effective.

Conditions

88. Suggested planning conditions were set out in the statement of common ground. However, the Council included a separate list within its statement of case. The conditions were discussed in a round table session and amendments were subsequently agreed between the parties. I have considered the revised list having regard to paragraphs 203 and 206 of the Framework and advice contained in the PPG. Where necessary I have adjusted the wording to improve precision and enforceability.
89. Given the outline nature of the application, conditions are necessary relating to commencement and the submission of the reserved matters. This will comply with the requirements of planning legislation¹⁶. Conditions are also needed to control the maximum number of dwellings and to specify the plans to which the permission shall relate. This will provide certainty and ensure that the new access onto Uffculme Road is constructed in accordance with the approved details.

¹⁶ Section 92 of the Town and Country Planning Act 1990, as amended

90. The Council has requested a condition requiring details of materials, boundary treatments, finished floor levels, existing and proposed site levels and proposed road and footpath levels to be included within the reserved matters. I agree that such a condition would be reasonable to ensure that the development has a satisfactory appearance and to address flood risk.
91. In the interests of highway and pedestrian safety, a condition is necessary to ensure that the vehicular access and the footway linking the site to the village are constructed prior to any other part of the development going ahead. The same condition would secure the provision of a site compound and car park, to discourage parking on the public highway during the construction phase.
92. I agree that a condition should be used to require the submission of a Construction Management Plan. This will ensure that the development is carried out responsibly and with minimal disruption to local residents.
93. A condition is also needed to ensure the provision of the new bus stops on Uffculme Road, in the interests of ensuring that occupiers have a choice of transport mode. For reasons of highway safety, the same condition would require that the internal roads, parking areas and footways within the site are provided prior to occupation of the dwellings. To make sure that they are adequate in functional terms, are safe and have a satisfactory appearance, detailed drawings of the highway infrastructure are required before construction begins.
94. The site lies within an area known to contain evidence of prehistoric activity and therefore I have attached a condition to secure a scheme of archaeological work with the aim of recording of any features of heritage interest.
95. A condition is also necessary to require the submission of an arboricultural method statement and tree protection plan. This will ensure the retention of existing trees in the interests of public amenity and the character and appearance of the area.
96. A condition is necessary to ensure that the site is properly drained. To this end, I agree that a surface water drainage scheme is required for the Council's approval and that this should be based on SUDS principles. Foul drainage is proposed to the mains sewer. However, a condition is required to ensure that dwellings are not occupied until sufficient capacity exists within the public sewerage network.
97. A phasing condition is included within the Council's list of suggested conditions. However, this was not pursued at the Inquiry and I do not consider that such a condition can be justified in this instance, having regard to the scale of the scheme. Likewise, a condition to require a management plan for areas within the site is unnecessary as this objective is secured via the S106.

Conclusion

98. To conclude, the proposal would be in conflict with Policies COR 17 and COR 18 of the CS. However, the development plan is inconsistent with the policies of the Framework by reason of its failure to properly identify, and plan for, the full objectively assessed need for housing in the District. Moreover, the Council has been unable to demonstrate a five-year supply of deliverable housing sites. In such circumstances, paragraph 49 of the Framework deems that relevant policies for the supply of housing should not be considered up-to-date. I have

therefore attached limited weight to the policies upon which the Council has sought to rely in refusing planning permission.

99. The proposal would bring important social benefits in terms of delivering market and affordable housing and it would also promote economic activity. I attach considerable weight to these matters, in light of the Council's current housing land supply position and the need for economic growth. No environmental harm has been identified which is not capable of being mitigated through the use of planning conditions and the submitted S106.
100. Accordingly, it is my view that there are no adverse impacts that would significantly and demonstrably outweigh the benefits of the development when assessed against the policies in the Framework taken as a whole. There are no specific Framework policies indicating that development should be restricted. I therefore consider that the proposed development should be regarded as sustainable. This is a significant material consideration sufficient to outweigh the development plan conflict.
101. For the above reasons, and having had regard to all other matters before me, including the various court judgments which were drawn to my attention during the Inquiry, I conclude that the appeal should be allowed and that outline planning permission should be granted.

Robert Parker

INSPECTOR

Attached – Schedule of Conditions

APPEARANCES

FOR THE APPELLANT:

Mr Giles Cannock MA LLM (Cantab) of Counsel Instructed by Neal Jillings

He called

Mr Neal Jillings BSc (Hons) MA MRTPI Jillings Heynes Planning Ltd

FOR THE LOCAL PLANNING AUTHORITY:

Mr Gary Grant of Counsel Instructed by Simon Johnson,
Solicitor with the Council

He called

Mr Dean Titchener BSc (Hons) MSc Principal Forward Planning Officer

Ms Tina Maryan BSc (Hons) MA T&CP MRTPI Area Planning Officer

INTERESTED PERSONS:

Mr A Samuels Local resident

Councillor R Evans Ward Member

DOCUMENTS SUBMITTED AT THE INQUIRY

1. Opening remarks on behalf of the LPA
2. Opening submission of the appellant
3. Adopted Mid Devon Core Strategy 2026 (2007)
4. Adopted Allocations and Infrastructure Development Plan Document (2010)
5. Local Plan Review Options Consultation (January 2014)
6. Local Plan Review Options Consultation (extract: pages 94-96)
7. Local Plan Review 2013-2033 – Proposed Submission (February 2015)
8. Policy H1 of the Devon Structure Plan First Review 1995-2011
9. Policy DM9 of Local Plan Part 3: Development management policies (2013)
10. Ivan Crane v Secretary of State for Communities and Local Government, Harborough District Council [2015] EWHC 425 (Admin)
11. Extract from Planning Practice Guidance (Reference ID: 50-001-20140306)
12. Extract from Planning Practice Guidance (Reference ID: 2a-019-20140306)
13. Exeter Housing Market Area SHLAA Methodology (Adopted September 2013) (extract: pages 6-8)
14. Exeter Housing Market Area Strategic Housing Market Assessment 2014 (extract: pages 85-108)
15. Housing Supply Schedule (referenced at Inquiry as Document ID1)
16. Email from Dean Titchener dated 27 January 2016 (@ 16:41) re. updated supply information – with spreadsheet attachment
17. Email from Dean Titchener dated 28 January 2016 (@ 09:25) re. updated supply information
18. Email from Dean Titchener dated 28 January 2016 (@ 17:15) re. updated supply information – with sites evidence attachment
19. Email from Katie Furner dated 6 January 2016 (@ 16:33) regarding Housing Need figures on Devon Home Choice for Uffculme
20. Five year land supply calculation (340 requirement to 2013, 370 thereafter)
21. Definition of 'Designated Persons' in the context of affordable housing
22. Consultation response from Education Authority dated 3 February 2015
23. List of suggested conditions (taken from Council's Statement of Case)
24. Closing on behalf of the LPA
25. Closing submissions of the appellant

SCHEDULE OF CONDITIONS

- 1) The site hereby approved for development shall be as shown on the submitted location plan (1913. SK01. Rev. A) and site access arrangements plan (0172. PHL/002 Rev. A).
- 2) The development hereby permitted shall be limited to a maximum of 60 dwellings.
- 3) Details of the appearance, landscaping, layout and scale (herein after called the "reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 4) The detailed drawings required to be submitted by condition 3 shall include the following additional information: boundary treatments, existing and proposed site levels, proposed road and footpath levels, finished floor levels, materials and sustainable urban drainage system.
- 5) Application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission and the development shall begin no later than 3 years from the date of this permission or not later than 2 years from the approval of the last "reserved matters" to be approved.
- 6) No development shall commence on site until a surface water drainage scheme based upon sustainable urban drainage principles (including a full drainage masterplan and associated drainage calculations) has been submitted to and approved in writing by the local planning authority. The scheme shall be fully implemented and subsequently maintained, in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may be agreed in writing by the local planning authority.
- 7) No development shall commence on site, other than in relation to a, b, c & d of this condition, until:
 - a) the access road has been laid out, kerbed, drained and constructed up to base course level for the first 20 metres back from its junction with the public highway;
 - b) the ironwork has been set to base course level and the visibility splays required by this permission laid out;
 - c) the footway on the public highway frontage linking the estate to the existing footway network to the east of the site has been constructed up to base course level; and
 - d) a site compound and car park have been constructed in accordance with details to be first submitted to and approved in writing by the local planning authority.
- 8) No development shall commence on site until a Construction Management Plan has been submitted to and approved in writing by the local planning authority. The plan shall include, but shall not necessarily be limited to, details of the following:
 - a) parking for vehicles of site personnel, operatives and visitors;

- b) loading and unloading of plant and materials;
- c) storage of plant and materials;
- d) programme of works (including working hours and measures for traffic management);
- e) provision of any hoarding or temporary fencing; and
- f) measures to control construction noise, the emission of dust and the deposit of materials on the public highway.

The development shall be carried out strictly in accordance with the approved Construction Management Plan.

- 9) No development shall commence on site until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority. The development shall be carried out in strict accordance with the approved details.
- 10) No development shall commence on site until an Arboricultural Method Statement and Tree Protection Plan, based on the submitted Tree Constraints Appraisal dated 7 October 2014 Devon Tree Services, has been submitted to and approved in writing by the local planning authority. The development shall be carried out in strict accordance with the approved details.
- 11) No development shall commence on site until details of the following pieces of highway infrastructure have been submitted to and approved in writing by the local planning authority: the estate road, cycleways, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, services routes, surface water outfall, road maintenance/vehicle overhang margins, embankments, visibility splays, accesses, car parking and street furniture. The information submitted pursuant to this condition shall include scale plans and sections indicating, as appropriate, the design, layout, levels, gradients, materials and method of construction. The development shall be carried out in strict accordance with the approved details.
- 12) No dwelling shall be occupied until there has been submitted to and approved in writing by the local planning authority evidence to demonstrate that sufficient capacity exists in the public foul sewerage network to accommodate the foul sewerage discharge from the development.
- 13) No dwelling shall be occupied until the following works have been carried out to the written satisfaction of the local planning authority:
 - a) The spine road and cul-de-sac carriageway including the vehicle turning head within that phase shall have been laid out, kerbed, drained and constructed up to and including base course level, the ironwork set to base course level and the sewers, manholes and service crossings completed;
 - b) The spine road and cul-de-sac footways and footpaths which provide that dwelling with direct pedestrian routes to an existing highway maintainable at public expense have been constructed up to and including base course level;

- c) The cul-de-sac visibility splays have been laid out to their final level;
- d) The street lighting for the spine road and cul-de-sac and footpaths has been erected and is operational;
- e) The car parking and any other vehicular access facility required for the dwelling has/have been completed;
- f) The verge and service margin and vehicle crossing on the road frontage of the dwelling have been completed with the highway boundary properly defined;
- g) The street nameplates for the spine road and cul-de-sac have been provided and erected;
- h) The footway on the public highway frontage linking the estate to the existing footway network to the east of the site has been completed; and
- i) The bus stops and the pedestrian links to the bus stops shown on the site access arrangements plan (0172. PHL/002 Rev. A) have been provided.

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