



## Appeal Decision

Inquiry opened on 11 July 2023

Site visits made on 10, 12, 25 and 26 July 2023

**by Philip Major BA(Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 11<sup>th</sup> September 2023**

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### **Appeal Ref: APP/X1118/W/23/3318751 Land north of St Andrews Road, Fremington**

- 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 Vistry Homes Limited against the decision of North Devon District Council.
  - The application Ref: 73875, dated 2 August 2021, was refused by notice dated 28 September 2022.
  - The development proposed is the erection of up to 161 residential dwellings, involving the demolition of an existing dwelling (no. 18 St Andrews Road) to create a new access onto St Andrews Road, and associated landscaping and open space.
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### **Preliminary Matters**

1. The application was made in outline, with all detailed matters reserved for future determination, except for the provision of site access.
2. Since the appeal was lodged the Council has updated its housing land supply assessment<sup>1</sup>. It now asserts that there is a deliverable housing land supply of 5.9 years. This is disputed by the Appellant. I held a round table session at the inquiry to hear evidence in relation to the likely provision on a number of disputed sites.
3. The Council no longer seeks to defend the third reason which was given for refusing planning permission; that relating to the loss of best and most versatile agricultural land.
4. Whilst the application was recommended for approval by planning officers that was in the context of the Council not being able to demonstrate a 5 year supply of deliverable housing land. The situation has now changed as set out above. In any event it now falls to me to make a final determination on the planning merits in this case.

### **Decision**

5. The appeal is dismissed.

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<sup>1</sup> Five Year Housing Land Supply Statement – April 2023

## **Main Issues**

6. It is my judgement that the most important issues to be determined are:
  - (a) Whether or not the Council can demonstrate a deliverable 5 year supply of housing land and therefore whether the 'tilted' balance is engaged;
  - (b) The impact of the proposed development on the living conditions of neighbouring occupants, with particular reference to those in close proximity to the proposed access;
  - (c) Whether the development as a whole, including the access, would be of a satisfactory standard (the design issue);
  - (d) In light of my findings on the matter of the 5 year housing land supply position and other issues, whether the planning balance supports the development proposed.

## **Reasons**

### ***Policy Background***

7. There are 3 Local Plan (LP) policies referred to in the Council's decision notice which remain in play. These are Policies DM01, DM04 and ST04, which taken together address matters of design and amenity. Other policies have been drawn to my attention and within the Statement of Common Ground are agreed as being within the suite of those regarded as being most important. These are Policies ST07, ST08, FRE, ST21 and ST09.
8. The Local Plan was adopted less than 5 years ago<sup>2</sup>. In relation to housing the requirement for the plan period was set out in the Local Plan and is for a minimum of 17220 dwellings distributed between North Devon and Torridge. This is an annual requirement of 861 dwellings. That is undisputed.
9. Against that background Fremington and Yelland was identified as a local centre. Local centres are intended to be the primary focus of development in the rural area by virtue of LP Policy ST07(1). Fremington and Yelland has a minimum requirement of 426 dwellings, as set out in LP Policy ST08, and expanded upon in Policy FRE, which it is agreed has already been exceeded. There is no upper cap on numbers in Fremington and Yelland so the proposal does not offend Policy ST08 in that respect.
10. The extent of the LP development boundary for Fremington excludes the appeal site and it is therefore to be regarded as being in the countryside. LP Policy ST07(4) indicates that in the countryside, beyond local centres, development will be limited to that which is enabled to meet local economic and social needs, rural building reuse and development which is necessarily restricted to a countryside location. The Appellant accepts conflict with this part of Policy ST07 but argues general conformity with the policy as a whole.
11. Policy ST21 seeks to manage the delivery of housing. It sets out the expectations for future action should housing delivery falls below certain thresholds or it is not possible to identify a deliverable 5 year housing land supply.
12. In common with the majority, if not all, of the land to the north of the B3233 the appeal site lies within the coast and estuary zone addressed by LP Policy

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<sup>2</sup> North Devon and Torridge Local Plan 2011 – 2031, adopted 29 October 2018

- ST09. This includes some built up areas, including St Andrews Road and the housing development to the east of the appeal site. Amongst other things the policy seeks to protect the integrity of the coast and estuary as an important wildlife corridor. The policy is supportive of development in undeveloped areas where it would not detract from the unspoilt character, appearance and tranquillity of the area, and is required because it cannot be reasonably located elsewhere.
13. Turning to design policies ST04 seeks to achieve high quality inclusive and sustainable design. DM04 expands on that general objective with a series of criteria to be addressed, whilst DM01 is supportive of development which would not lead to significant harm to the amenities of any neighbouring occupiers.
14. The Statement of Common Ground also refers to Policy DM05, albeit that it is not identified as being a most important policy. However, it is clear that DM05 requires development to ensure safe and well-designed vehicular access and egress, and consequently it follows that it has an impact on the design consideration in this appeal. To that extent it has strong links to the most important policies identified by the main parties, and should also be treated as being one of the basket of policies which are most important.
15. I turn next to the main issues identified above.

### ***Housing Land Supply***

16. I preface this issue by acknowledging that housing land supply in this instance is a joint exercise between North Devon and Torridge Councils (as is the Local Plan). The assessment of housing land supply can never be a wholly precise exercise. It requires the interpretation of the best information possible and reasonable judgements about the outcomes predicted across all housing supply sources. This inevitably leads to differences of assessment for particular sites between those involved. But in this case there is also a difference of approach to the correct method of calculating the housing requirement.
17. When the LP was examined the Inspector accepted that the shortfall in supply at that time should be made up over the course of the whole plan period (the Liverpool method) because seeking to address the shortfall over the ensuing 5 years (the Sedgefield method) would be too onerous a task. This clearly impacts upon the annual requirement. The undersupply of housing had been such that it was a judgement made at that time that the future requirement should include a 20% buffer even before the period for dealing with the shortfall had been determined. That is not disputed as the background to the current position.
18. However, the Council now seeks to apply a 5% buffer to the requirement in light of the housing delivery test (HDT) results, but retain the Liverpool method of spreading the shortfall over the plan period (in this case 9 years). I have some sympathy with the view of the Appellant that this is effectively 'cherry picking' from the data to suit the desired outcome. The National Planning Policy Framework (NPPF) introduced the principle of using HDT results, but the actual outcome was not known until after the LP was adopted, and no account could have been taken of any unknown results. Hence the LP Inspector's approach was pragmatic in the circumstances. But HDT results are now known. Where results fall below 85% of expectations a 20% buffer is to be applied. However, Planning Practice Guidance (PPG) is clear that the

- Sedgefield (5 year) approach is to be preferred unless specifically justified as part of the plan making process.
19. The Liverpool method with a 20% buffer was justified through the plan making process. It therefore seems appropriate that if the Council is seeking to change that position it should be through a Local Plan review. An individual appeal is not the appropriate place to do so. I therefore agree with the Inspector who dealt with the Great Torrington appeal<sup>3</sup> when he concluded that *“What she (the LP Inspector) said was that there should be no move away from the 20% buffer until the end of the Plan period, unless the shortfall was cleared, or the Plan was reviewed. There is no reason therefore why the Council should be allowed to adopt a mix and match approach. The reasons which persuaded the Inspector to impose the 20% buffer remain as pressing today as they were when she imposed it.”*
  20. Although that appeal was determined some time ago the LP is still less than 5 years old. It still has bite and notwithstanding the HDT results there is still a significant shortfall in housing provision. It is right in my view to follow the procedures set out in the LP until such time as they are formally changed. Hence I agree with the Appellant that the shortfall in provision and future requirement, as of now, should properly be dealt with over the plan period remaining, with a 20% buffer. This appeal is not an appropriate forum for altering the methodology enshrined in the Local Plan. But in any event this remains something of a moot point since the alternative must, logically, be a 5% buffer with the shortfall addressed over the next 5 years as advised by PPG. The results of either of those calculations are similar as set out below.
  21. The Housing Statement of Common Ground helpfully sets out the respective positions. In the 5 year period at issue (base date 1 April 2022) the baseline requirement is 4305 homes. The cumulative shortfall in provision is 1540 (Council figure) or 1476 (Appellant). As set out in the Statement of Common Ground this results in a 5 year requirement of some 6150 dwellings using the Liverpool method plus a 20% buffer, or some 6070 dwellings using Sedgefield plus 5%. Those requirements are close enough to each other as to be relatively immaterial in the context of the uncertainties surrounding the prediction of housing supply.
  22. I turn, then to the matter of supply itself. There are a number of sites which are disputed, and one where figures from a previous year were not recorded but are now accounted for in the current 5 year period. A number of sites were allocated for development as of the base date, but did not benefit from planning permission. Nonetheless the Council has included them in its calculations and supplied evidence of progress such as the granting of outline or detailed planning permission, and the discharge of conditions. As an example I refer to the Bideford West Urban Extension, which was an allocation at the base date only (BID01) but now has outline planning permission for 200 dwellings and a reserved matters application is under consideration, and discharge of conditions applications have been made. The Council takes a conservative approach to delivery, expecting just 85 homes in the 5 year period. This seems to me to be reasonable as a basis for the realistic expectation of delivery.

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<sup>3</sup> APP/W1145/W/19/3238460

23. Much of the Appellant's evidence was concerned with the fact that as of 1 April 2022 sites were simply allocations and/or had no planning permission. However, I reject the notion that the Council did not have reason, for the most part, to include those sites in the deliverable supply. The Council's evidence garnered in the subsequent period has largely justified its position in including the sites within the supply. There are exceptions, such as the evidence relating to land off Cornborough Road, Westward Ho! (allocation NOR02) where the Council's evidence is less convincing and I am minded to agree with the Appellant and reduce, but not eliminate, the expected supply. Even so, the provision of some development on that site, which now has an outline permission for up to 400 dwellings, is not unreasonable.
24. It is not necessary for me to address all the points made at the housing round table session. But it is my judgement that the Council has carried out a comprehensive exercise in establishing the situation on a whole range of sites. Whilst it may be frustrating to have late information during the course of the year, it is permissible to update evidence to support the inclusion of sites within the 5 year supply figures. Taken in the round I am satisfied that the Council has done so diligently and has supported its position in large measure. I therefore do not accept that the supply position should be reduced to the extent suggested by the Appellant. Having assessed the data I consider that the Council's supply assessment should be reduced by about 130 dwellings<sup>4</sup>. I note here that a number of sites are only predicted to provide homes towards the end of the 5 year period. This appears to me to be a realistic approach.
25. Based on my assessment I am therefore satisfied that the Council is able to demonstrate a deliverable supply of about 6261 dwellings in the 5 year period. This is in excess of the requirement as calculated by either methodology (Liverpool + 20% [6150] or Sedgefield + 5% [6070]). Hence I am satisfied that the Council is able to demonstrate a supply of just over 5 years. In such circumstances it is not appropriate for me to engage the 'tilted' balance which would flow from NPPF paragraph 11 when I come to the planning balance.
26. Looking backwards, rather than a forward projection of a 5 year supply, it is apparent from Housing Delivery Test results that the actual provision of housing has met expectations in recent years. Although actual supply in any year is dependent on many factors, this gives further credence to the Council's current position on supply and delivery. Policy ST21 does not appear to me to be breached in these circumstances.

### ***Living Conditions***

27. St Peters Road provides the link between Yelland Road (B3233) and St Andrews Road. Each of St Peters and St Andrews Roads is lined on both sides by single storey dwellings with direct vehicular access to the street.
28. Access to the appeal site is proposed across the land currently occupied by No 18 St Andrews Road. That property is flanked at close quarters by Nos 16 and 20. At my site visits I was able to see the proximity of Nos 16 and 20 to the location of the proposed access road. The road would be 5.5m wide, about 0.3m wider than the existing carriageway of St Andrews Road at this point. It would be possible to provide verges and 2m footways including a section of 3m

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<sup>4</sup> An aggregate of reductions on sites SAV 285, SAV 306, SAV 308, SAV 309, SAV 181 and SAV 163 identified in the schedule attached to the housing statement of common ground.

- wide shared pedestrian and cycleway. I do not doubt that as the access road swings into the space formerly occupied by No 18 it would satisfy the technical engineering standards of road width, pedestrian and cycle provision and carriageway radii.
29. Satisfying technical guidance is but one matter which I have to consider in relation to access provision. In reality the technical details take little account of the human interaction with neighbouring occupants, but seek principally to satisfy highway configuration requirements. In order to address the human element of the interaction between the access and its neighbours it is proposed to erect a 2m high acoustic fence alongside Nos 16 and 20, with details to be agreed at reserved matters stage. That proposal indicates to me that the Appellant acknowledges that there would be an impact on the living conditions of the residents of those dwellings by reason of noise intrusion, and this is clear from the evidence submitted. This intrusion would be particularly likely during what might be regarded as unsocial hours in the early morning or when residents are using their back gardens. The absolute numbers of vehicle movements at these times may be moderate, but given the minimal traffic flows which exist currently (indeed none adjacent to rear gardens of Nos 16 and 20) and the quiet nature of the existing environment, the increase in numbers involved would be likely to have a detrimental and disturbing impact on existing residents' living conditions.
30. Noise is something which is common in urban areas and can be intrusive. More generally in this location the technical acoustic evidence is that there would be some noticeable change in the acoustic environment, but not to unacceptable levels. However, what is predicted or measured cannot always be a reliable indicator of the perception of the receiver of noise. St Andrews Road is a notably quiet environment and I am satisfied that the levels of traffic predicted to be generated by the development would be likely to increase the perception of noise disturbance for the residents of Nos 16 and 20 and some other properties nearby. The change in the noise environment in gardens and internal rooms would, notwithstanding acoustic fencing in some locations, be likely to be experienced as a significant intrusion.
31. In addition, the acoustic fences themselves would be likely to have some adverse impact on amenities. Although it would be possible to erect 2m high fencing in their rear gardens now, residents have that choice without the consideration of noise intrusion from traffic or other sources. In addition, the acoustic fencing would be close to the existing dwellings at Nos 16 and 20, and would have some impact on outlook. It is right that the flank walls of No 18 already restrict outlook but the 2m high acoustic fence close to bedroom and living room windows would be likely to introduce an oppressive feature for residents.
32. The access would emerge from the appeal site directly opposite No 19 St Andrews Road. Vehicles leaving the site at night would have their lights on and there is concern that the lighting would cause nuisance in the front living room and bedroom of No 19. The Appellant's expert witness has gone to some lengths to devise a methodology to assess whether light spill in to No 19 would be excessive or cause nuisance. There is no accepted methodology for such an assessment that has been brought to my attention. This assessment therefore distils into a matter of judgement based on the evidence presented.

33. Vehicles leaving the appeal site would be on a relatively level road, without being materially elevated above or reduced below St Andrews Road. Vehicle headlights do spill light, albeit that they are designed not to dazzle other motorists. In my judgement it would be inevitable that vehicle headlights would lead to light spillage into the front rooms of No 19. This may only occur in certain circumstances or when curtains were open during twilight or darkness, but would nevertheless be a likely source of nuisance which is currently non-existent.
34. A similar situation would be likely to occur at No 22 St Andrews Road, that faces directly into St Peters Road, the direction from which traffic to the appeal site would approach. There are 2 bedrooms in the front of that property which would be likely to be affected by some light intrusion.
35. A further concern exists in relation to the property located close to the south-east corner of the appeal site. This property, Church Farm, abuts the agricultural access lane to the appeal site at this location. Church Farm has windows which are immediately on, and close to, the boundary with the lane. The intention of the development in its gestation period clearly indicated that this lane would be available to be used by pedestrians and cyclists to access the development. Indeed in the land use parameter plan which it is agreed is one of the application documents for consideration (0727-MA1-1008) this link is clearly indicated. If pedestrians and cyclists were to utilise this route there would be direct overlooking into one or more of the rooms at Church Farm. This would result in a severe and unwarranted intrusion into the privacy of the occupants of that property. Although the lane is used for agricultural access at present this is likely to be intermittent and of limited cause for concern.
36. There was some discussion at the inquiry about the potential to restrict access to this lane, and restrict its use, by condition. I was also informed that the owners of Church Farm were in discussion in relation to this matter. That aside, matters of the lawful use of the lane and clarification of rights of access are not before me and would need to be resolved elsewhere. Notwithstanding the planning condition suggested, at present I have too little information to be sure that suitable protection for the amenities of the occupants of Church Farm could be achieved, and it is right to take a precautionary stance in that respect.
37. I also consider that the proposal to reconfigure the junction between St Peters and St Andrews Roads would be likely to be problematic. The change in priorities proposed would lead to vehicles slowing or stopping and then accelerating. Most modern vehicles are relatively quiet, but not all. The potential for noise disturbance from revving engines cannot be discounted, but this in itself is a minor issue which would not affect the outcome of the appeal in isolation.
38. Taking these matters in the round it is my judgement that the proposed development, with the traffic flows predicted, would be likely to significantly and detrimentally affect the living conditions of several neighbouring occupants. For that reason I find conflict with LP Policy DM01(a). That policy supports development where there would be no significant harm to the amenity of adjoining occupiers. There would be such significant harm in this case. I have noted that there is no residual objection from the Council's environmental health officers at least in part based on the fact that an acoustic barrier would be installed. However, matters pertaining to living conditions largely come

together as matters of judgement, informed by available technical and other evidence. I have set out my judgement above.

### ***Design Standard***

39. As implied above, I do not consider that the design of the access contributes to a well-designed street pattern. The access problem was part of the concern established by the design review panel at an early stage. Further criticisms of design have been made in relation to the concept for the site, which would be intended to include the use of the northern part of the site as open space including allotments and a sports pitch. In addition there is concern that the housing development would be at a density incompatible with its surroundings.
40. The design review panel neatly explained its concerns in the letter of December 2021. Whilst acknowledging the changes to the draft scheme as an improvement the panel continues to have concerns regarding the relationship with the proposal to the form of the village. It describes it as *"a cell or pod added to the village, a development with a single point of vehicle access, a cul-de-sac on a cul-de-sac, not integrated well with the village, and not enhancing the character or permeability of Fremington"*.
41. That does seem to me to address the fundamental difficulty with designing a development on this site. It is not the detail of the internal site layout of housing which is problematic, because that is yet to be decided. But at a macro level of establishing a suitable level of integration with the rest of Fremington the proposal is flawed. The constraints which inhibit a satisfactory development primarily stem from the limited access options which are available for vehicular traffic as well as pedestrian and cycle links. Although the internal design of the proposal, which is in any case would be reserved for future determination, would be capable of addressing the majority of the principles espoused in the National Design Guide, it would not follow the important principle of providing a legible, connected development where movement and permeability would be acceptable. I note here that, if Church Lane were to be excluded as a pedestrian and cycle route, permeability would be further reduced. In essence all movement towards the village and its facilities would then flow along St Andrews and St Peters Roads<sup>5</sup>.
42. At the inquiry it was made clear that there is no available alternative vehicular access to the appeal site. In effect the site is landlocked and without a new access punched through from the south (St Andrews Road) no other options can presently be pursued. For that reason I understand why the Appellant has pursued the design submitted. However, it seems to me that the fundamental constraints of the site have not been successfully addressed.
43. A matter raised by local residents is the constrained nature of the local highway network, and the difficulty in using it at times even without further development. I spent a great deal of time at my site visits observing the highway approach to the proposed site access. St Peters Road and St Andrews Road are not particularly wide and parking is unrestricted. On some of my visits the carriageway was reduced to a single lane by parked vehicles in various locations. So whilst the roads may be deemed wide enough and the site access itself assessed as being technically acceptable by the highway authority, the practicality of gaining access to the site seems to me to be a

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<sup>5</sup> I recognise that access to the Tarka Trail would also be available to the north



different matter, especially with the traffic flows predicted. In my judgement there is a strong likelihood of vehicular conflict between vehicles entering and leaving existing properties and those wishing to visit the appeal site. I also understand the concerns expressed relating to refuse and other service vehicles and the need to reverse in the carriageway hereabouts. These matters all reinforce my view that the overall design ethos here, which relies on this single point of vehicular access along a serpentine route, is fraught with difficulty. I find conflict with Policy DM04(i) and (k) since this proposal would not provide a well-designed street pattern.

44. I have noted the criticisms of some of the aspects of the scheme, notably the matter of density of development and potential building heights. However these do not seem to me to be reasons to withhold permission in themselves. Making efficient use of land is important and low density development here would not be efficient. Similarly the building heights indicated would not be out of character with the village as a whole, or with the development to the east (the Barracks development).
45. I should add at this point that there is a measure of agreement between the parties that the northern part of the site, as proposed for open space, recreation and open uses such as allotments, would not be unacceptably harmful in design terms. The character of that part of the land would remain essentially open, and would remain enclosed by the significant surrounding vegetation. It would add a further link to the Tarka Trail for residents of the village, though the benefit in that respect is tempered by the fact that existing links are already available nearby. Even if there were to be some glimpses of the built development at the site from the Tarka Trail this would not be out of character with the context of Fremington generally. Built development can be seen from many locations along the trail.
46. Although I find that the proposal would be likely to be capable of being acceptable in some design aspects, taken overall I find that the proposal would introduce a development of a design which would not satisfactorily relate to its surroundings, principally because of the constraints imposed by access requirements. This would be in conflict with LP Policy DM04(h) DM05 and ST04 since it would fail to achieve a high quality and inclusive design which responds to its context. There would also be a failure to achieve the quality of development sought through Policy FRE. Taken overall this is a matter of substantial importance weighing against the proposal.

### **Other Matters**

47. I address here some of the other matters which have been raised, but which are not determinative in the appeal.
48. The matter of the impact on heritage assets has been raised. There is a listed church to the south-east and an extensive conservation area which includes large parts of Fremington. However, the intervening developments, and the development on much of the conservation area itself, mean that the proposal has no material effect on either the fabric or setting of those assets. This is not a matter which carries any weight in my considerations.
49. To the west of the site lies Braunton Burrows, a protected European site. The Council carried out an appropriate assessment at application stage. With appropriate mitigation Natural England concurred that there would be no likely

significant adverse effect on the protected site. As decision maker in this case I am able to concur with the results of the appropriate assessment carried out, and adopt the conclusions therein. In light of my decision on the appeal I do not need to consider this matter further.

50. More generally the ecological impact of the proposal has been considered. Again, I concur with the conclusions of the Council's assessment that there would be no unacceptable impact on ecological matters. Indeed I note that the proposal has been calculated to achieve a substantial biodiversity net gain. There was some concern expressed at the inquiry that previously unidentified evidence of a dormouse population had been found. However, whilst respecting the information brought forward, it cannot be taken to be definitive evidence of such a population. This is not a matter which can weigh against the proposal.
51. The appeal site lies within the Coast and Estuary zone dealt with in LP Policy ST09. Subsection (7) is particularly pertinent. That indicates that development in this location will be supported if it meets a number of criteria. Impact on the character, appearance and tranquillity of the area would be limited, so meeting the first tranche of criteria. But the policy then indicates that if the impact is limited in those respects the support of the policy is contingent on the development being required because it cannot reasonably be located outside the undeveloped coast and estuary. It has not been shown that the development, or similar, cannot be located elsewhere. However I do not regard this as a determinative matter in its own right as the appeal proposal must be assessed in the light of all the relevant circumstances.
52. An agreement pursuant to S106 of the 1990 Act has been submitted. This deals with a number of matters including affordable housing, contributions to education and mitigation relating to the Braunton Burrows Special Area of Conservation, the provision and management of on site public open space, allotments, and surface water drainage. It is not necessary for me to address these matters in detail in light of my final decision on this proposal.
53. Similarly, although a number of conditions were discussed at the inquiry it is my view that these do not overcome the matters which have led to my overall conclusion as set out below.

### **Planning Balance and Conclusion**

54. I turn next to the planning balance, which incorporates my assessment of the benefits and disbenefits which would be brought about by the development. It is worth reiterating that the tilted balance is not engaged in this case.
55. The scheme would bring about a number of material benefits;
  - First among the benefits would be the provision of affordable housing in a location where it is acknowledged that such provision is much needed and would meet the objective set out in the LP. The provision of affordable housing is a substantial benefit of the scheme. It would comply with the requirements of LP Policy ST18.
  - The provision of market housing, although a contribution to ongoing supply, would be of limited weight in light of the likely delivery identified elsewhere.

- There would be economic benefits flowing from the development. These would include construction jobs and future spending. But it must be the case that any development of housing schemes of this magnitude would deliver similar benefits, and such developments are ongoing. This is a matter of limited weight.
- There would be social benefits accruing from the provision of open space, allotments and the like on the northern part of the site. However, these must be seen in the context of open space provided at the Barracks site to the east and alternative access to the Tarka Trail. Whilst providing some additional benefit this is of limited weight in this case.
- I have acknowledged that significant net gain in biodiversity would result from the development. This carries some weight in the overall balance.

56. I turn next to the disbenefits of the proposal;

- There would be significant harm to the amenities of adjoining residents, as I have set out above. This weighs significantly against the proposal.
- The proposal would be of poor design, principally resulting from the inability to overcome the existing constraint on vehicular access and the consequent need to contemplate the introduction of acoustic panels to mitigate impacts on residents. The design is fundamentally flawed because of this major drawback. This carries substantial weight against the proposal.

57. The assessment of the final balance is not a mathematical exercise.

Judgement is required to achieve the final result. In this case, albeit that benefits are numerically superior, their cumulative weight would not outweigh the significant harm I have identified. I feel compelled to point out that the provision of a significant number of affordable dwellings rides high in the balance here. However, put simply, the inability of the Appellant to provide a suitable access which would avoid unacceptable harm, together with other harm, is too great a hurdle to overcome. This overall level of harm leads to conflict with the development plan read as a whole, following from conflict with policies which I have identified in my reasoning on the individual issues above. This is in addition to the Appellant's acknowledgement that there is conflict with part of LP Policy ST07 as the site lies outside the identified area for development at Fremington. Notwithstanding the superficial attractiveness of the site in its proximity to the village centre, public transport and other facilities, the site cannot be regarded as realising the 3 strands of sustainability set out in the NPPF. There are no other material considerations in this case which would lead me to conclude that a decision should be made other than in accordance with the development plan.

58. For the reasons given above I conclude that the appeal should be dismissed.

*Philip Major*

INSPECTOR

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Mr T Leader

Counsel

He called:

Mr N Ireland MRTPI

Director, Icen Projects Ltd

Ms F Kemal BSc(Hons)

Freelance Architect

DipArch PgCert ARB

RIBA

Mr M Reynolds

Managing Director, Context Planning

BSc(Hons) MSc MRTPI

### FOR THE APPELLANT:

Mr P Goatley

King's Counsel

Ms S Davies

Counsel

They called:

Mr J Dixon BA(Hons) MA

Director, Savills (UK) Ltd

MRTPI

Mr J Roberts MPlan

Tetlow King Planning

MRTPI

Mr M Barlow BSc(Hons)

Director, Stantec UK Ltd

MSc MIOA

Mr N Thorne BSc(Hons)

Transport Planning Director, Rappor

MSc MCILT MCIHT MCIS

Mr C Odgers BA(Hons)

Urban Design Director, Savills

DipUD DipUP MRTPI

Ms W Lancaster CMLI

Director of Landscape Planning, Tyler Grange

Mr D Yeates BSc(Hons)

Director, Savills

MA MRTPI

### For the Round Table Session on Housing Land Supply

Mr Dixon

For the Appellant

Mr Ireland

With a team of officers for the Council

### INTERESTED PERSONS:

Mrs P Ward

Local Resident

Mrs H Elder

Local Resident

Mr D Slade

Local Resident

Mrs J White

Local Resident

Mrs Braddock

Local Resident

Mrs Clay

Local Resident

Mr Pullen

Local Resident

Cllr F Biederman

Local Councillor and resident

Mr Hibbett	Local Resident
Mrs D Etheridge	Local Resident
Mrs Garfield	Local Resident

DOCUMENTS HANDED IN AT THE INQUIRY (not in chronological order)

- 1 Opening statement on behalf of the Appellant
- 2 Opening statement on behalf of the Council
- 3 Representations from Mrs Ward
- 4 Representations from Mrs Elder
- 5 Representations from Mr Slade
- 6 Representations from Mrs Etheridge
- 7 Representations from Mrs Garfield
- 8 Representations from Mrs White
- 9 S106 note
- 10 Draft S106 Agreement
- 11 Draft conditions
- 12 SoCG on Housing Land Supply

DOCUMENTS SUBMITTED AFTER INQUIRY SITTING

- 13 Signed S106 Agreement
- 14 Closing submissions on behalf of the Council
- 15 Closing submissions on behalf of the Appellant