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## Appeal Decisions

Site visit made on 10 July 2019

**by D Boffin BSc (Hons) DipTP MRTPI Dip Bldg Cons (RICS) IHBC**

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

**Decision date: 23 August 2019**

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### **Appeal A: Appeal Ref: APP/X1118/W/18/3209809**

#### **Mitchums Camping Site, Myrtle Meadow, Croyde, Braunton EX33 1NN**

- 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 Mr G Ingleby against the decision of North Devon District Council.
  - The application Ref 64206, dated 1 December 2017, was refused by a notice dated 21 March 2018.
  - The development proposed is the erection of 8 Residential Dwellings Comprising 5 Affordable Starter Homes and 3 Open Market Dwellings.
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### **Appeal B: Appeal Ref: APP/X1118/W/18/3209810**

#### **Mitchums Camping Site, Myrtle Meadow, Croyde, Braunton EX33 1NN**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr G Ingleby against the decision of North Devon District Council.
  - The application Ref 64217, dated 4 December 2017, was refused by a notice dated 3 July 2018.
  - The development proposed is the erection of 2 dwellings.
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### **Decisions**

1. Both appeals are dismissed.

### **Preliminary Matters**

2. The planning application relating to Appeal A was submitted in outline with access, landscaping and layout to be determined at this stage. I have treated the submitted 8 Unit Site Section plan as indicative in relation to the scale and appearance of the dwellings.
3. During the appeal process the appellant has supplied 2 signed and completed Unilateral Undertakings (UU) in association with the 2 appeals. I will return to them below.
4. As set out above there are two appeals on this site. They relate to 2 planning applications submitted by the appellant for different schemes on the appeal site. To avoid duplication, I have dealt with them together, except where otherwise indicated.
5. I have taken the address, in the banner headings above, for the appeal site from the planning application form relating to Appeal A as it reflects the address as shown on the Council's Decision Notices for both appeals.

6. A revised version of the National Planning Policy Framework (the Framework) has been published since the appeals were lodged. The parties have had the opportunity to comment on any relevant changes during the course of the appeal and I have taken account of any comments received. I am required to consider the appeal on the basis of the current Framework.
7. The Government also published Housing Delivery Test (HDT) results for local authorities in England on the same date as the revised Framework and the Office for National Statistics published the updated annual affordability ratios on the 28 March 2019. Given the evidence before me in relation to the Council's 5 year supply of deliverable housing sites (5HLS) I do not consider that the publication of the HDT or these statistics would result in a change to the 5HLS that would necessitate seeking the views of the parties.
8. It has been brought to my attention that the North Devon and Torridge Local Plan (LP) was adopted in October 2018 and I have been provided with copies of the relevant policies. All parties have had the chance to comment on this document and it is incumbent on me to deal with the appeal on the basis of up-to-date information.

### **Main Issue – both appeals**

9. The main issue is whether the site is a suitable location for housing with regard to; its location within the North Devon Area of Outstanding Natural Beauty (AONB), the Heritage Coast (HC) and Coastal and Estuarine Zone (CEZ); the nearby designated heritage assets; the spatial strategy and the Framework.

### **Reasons**

10. The appeal site principally comprises of a field/paddock that is used at certain times of the year as a campsite. It lies close to the junction of Jones's Hill and Moor Lane. There is modern residential development, Myrtle Farm View, on the opposite side of Jones's Hill and to the north and west of the site on Moor Lane.
11. There are gravelled access drives, an open sided agricultural building and 2 buildings connected to the campsite use within the appeal site. Myrtle Farmhouse, a grade II\* listed building, and its former barn, a grade II listed building, on Jones's Hill are adjacent to the appeal site. The appeal site is also adjacent to Croyde Conservation Area (CCA) and it is within the AONB, HC and CEZ.
12. The proposal as part of Appeal A would involve the construction of 8 dwellings on the site accessed from Moor Lane. The existing access point would be relocated further to the west and a new road would extend from Moor Lane towards the southern boundary of the site. Five of the proposed dwellings would be sited on the western side of the road and 3 to the eastern side. An area of public open space would be formed adjacent to the junction of Jones's Hill and Moor Lane.
13. The proposal as part of Appeal B would also utilise a relocated access point and road on a similar alignment to that of Appeal A. The area between the access road and the junction of Moor Lane and Jones's Hill would be landscaped, a permissive footpath created that would link to an area of public open space on the southern part of the site and the existing play area that is adjacent to the site's southern boundary. Two detached dwellings would be located within the central part of the site.

*AONB, HC and CEZ*

14. LP Policy ST09 states that the CEZ is identified on the Policies Map where, amongst other things, the sustainability of coastal communities will be maintained and enhanced with regard to their distinctive cultural heritage and landscape setting. The emphasis of LP Policies ST14 and DM08A is to protect and enhance the natural environment and landscape character of North Devon by ensuring that development conserves the special character and qualities of the AONB, maintains the character and distinctive landscape qualities within the HC and has regard to the statutory purposes including ensuring that the landscape character and natural beauty of the AONB is conserved and enhanced. Paragraph 172 of the Framework states that great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs.
15. A Landscape and Visual Appraisal Statement (LVAS), dated May 2016, was submitted with the appeals. This states that the appeal site is within National Character Area 145 Exmoor, the North Devon Coastal Downs area/ Landscape Character Type 4C Coastal Slopes and Combes with Settlement as defined within the Joint Landscape Character Assessment for North Devon and Torridge Districts (LCA) and Seascape Character Area 17 Croyde Bay and Baggy Point as defined within the North Devon and Exmoor Seascape Character Assessment.
16. The key characteristics of these include, amongst other things; a diverse upland landscape, rising abruptly out of the surrounding lowlands; central high, treeless moorlands used for rough grazing, incised by steep wooded valleys and combes with occasional grass and arable fields; scattered farms and picturesque historic villages, often in sheltered combes; steep-sided and narrow branching combes carving through the surrounding rolling landform to the coast; long linear settlements generally follow the narrow valley floors, whilst dispersed farmsteads and hamlets are scattered throughout and are nestled into valley sides; strong maritime character with an overriding presence of the sea; stark contrasts between the often wild and rugged coastal headlands and the enclosed developed bay at Croyde.
17. The LVAS appears to appraise the landscape and visual impacts of a scheme for 8 dwellings that was previously refused by the Council in 2017. I have not been provided with updates or amendments to that document in relation to the specific landscape and visual impacts of the schemes before me.
18. The evidence before me indicates that the management strategy of the LCA includes, amongst other things, the protection of the distinctive linear and settlement pattern of the combes and the setting of development within the landscape.
19. The settlement of Croyde has appreciably expanded from its historic core which appears to have originally been concentrated around the crossing of the Cyrdda stream which is the junction of St Mary's Road, Jones's Hill and Hobb's Hill. The modern expansion of the settlement has mainly followed long linear patterns to the north and south of this stream with a considerable part of the lower sections of the valley being retained as a largely undeveloped area. Even though, the appeal site is used as a campsite for part of the year and has associated buildings and infrastructure on it, for the majority of the time it has a largely undeveloped character and appearance and it is sited between the modern development on Moor Lane and the historic core section of Croyde. Therefore, it forms an important component of that largely undeveloped area.

20. When viewed from appraisal viewpoint (AV) 06, as identified within the LVAS, the largely undeveloped area along the valley floor is clearly discernible. When viewed from AV 01 on Moor Lane the largely undeveloped nature of the appeal site is readily apparent due to the sloping topography. Moreover, when the landscaping is not in full leaf its undeveloped nature is also seen in glimpsed views from AV 05 as indicated within the LVAS. This undeveloped swathe of land visually links the beach to the surrounding countryside around Croyde and provides an open and sylvan character to the areas between the different parts of the settlement. As such, it helps to soften the visual impact of the settlement within the landscape and it makes a positive contribution to the character of that landscape.
21. The proposals would be viewed in the context of the existing development that is adjacent to the site and views of Saunton Ridge would not be precluded from AV 01. Furthermore, the existing hedges and trees that are within and around the boundaries of the site would be retained, a landscaped area would be formed adjacent to Moor Lane and additional landscaping would form part of each proposal. The design and appearance of the dwellings proposed as part of Appeal B has been inspired by the local vernacular including that of local agricultural building styles and the scale and appearance of the dwellings proposed in Appeal A is not to be considered at this stage.
22. Nevertheless, the built form of the dwellings associated with either proposal would be apparent from Moor Lane, AV 05 and AV 06. In addition, the layout of the dwellings proposed with either scheme would mean that the modern development on Moor Lane and the historic core section of Croyde would effectively be linked on the south side of Moor Lane. Moreover, the buildings would clearly be in residential use and in combination with the domestic paraphernalia associated with that use the proposals would have an inherent and harmful urbanising impact. Consequently, the proposals would create a much stronger presence of built form into largely undeveloped land that, at present, positively contributes to the landscape character of the area.
23. As such, even though Appeal B is for a smaller number of dwellings than Appeal A, both of the proposals would result in harm to the special character and qualities of this part of the AONB, HC and CEZ. The additional planting and landscaping would help to eventually reduce the visual impact of the developments, but I am not satisfied that it would mitigate the harm altogether. Therefore, the landscape and scenic beauty of the AONB would not be conserved or enhanced. Taking into account all of the above, this harm would be limited and localised in relation to the overall AONB, HC and CEZ. However, this is a sensitive area in which great care must be taken to assimilate new development into the existing landscape. It follows that both of the proposals would conflict with LP Policies ST09, ST14 and DM08A and paragraph 172 of the Framework.

#### *Heritage assets*

24. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, (the Act) requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest. The glossary to the Framework states that the setting of a heritage asset comprises the surroundings in which it is experienced.

25. From the evidence before me, including the listing description and the submitted Assessment of Significance (AS), I consider that the significance of Myrtle Farmhouse is largely derived from its form, historic fabric, high quality architectural features and past use. I consider that the significance of the grade II listed barn adjacent to Myrtle Farmhouse to be largely derived from its form, historic fabric, architectural features and its past use and associations with the farmhouse.
26. The significance of these listed buildings is mainly experienced from within their curtilages. Nonetheless, due to their proximity to Jones's Hill their significance is also experienced in views from this road. They are also clearly visible from within the appeal site. In the winter months glimpses of parts of the listed buildings from Moor Lane, through the intervening boundary vegetation, across the appeal site would be possible.
27. The listed buildings are no longer associated with an agricultural use and the barn appears to have been converted into a number of residential units. However, due to the layout of the buildings and their physical form the perception of the original function remains. The listed buildings and other outbuildings appear to have formed part of a farm on the edge of Croyde in a countryside setting as indicated on historic maps within the AS. The appeal site forms part of that countryside adjoining the listed buildings. Taking into account all of the above, the appeal site can be treated as forming part of the setting of the listed buildings.
28. This countryside setting has historic, evidential and aesthetic value as it allows for an appreciation and understanding of the listed buildings' links to agriculture and farming. Therefore, it makes a positive contribution to their significance. Moreover, in my experience and based on the evidence before me including the historic maps in the AS, it is highly likely that the appeal site was, at some stage in the past, functionally connected to the listed buildings. However, the setting of the listed buildings has been substantially altered and eroded by nearby modern development and the listed buildings and the appeal site are now owned by numerous parties. These factors have eroded the aesthetic, historic and evidential value that the setting contributes to the significance of the listed buildings.
29. Nevertheless, whilst the appeal site is not readily visible from Jones's Hill, it is indicated by mature trees visible over roofs and the existing open sided barn within it is visible in views between the listed buildings. In addition, as stated above, the undeveloped nature of the appeal site is visible from Moor Lane and parts of the listed buildings would also be visible at certain times of the year in those views. As a result, I consider that the appeal site still makes a positive contribution to the significance of the listed buildings through its values as part of its rural setting.
30. The proposals would, as stated above, have an inherent and harmful urbanising impact through the introduction of built form on the site. That built form would be clearly discernible in the views from Moor Lane. Furthermore, due to the sloping topography and the proposed layout I consider that parts of the dwellings proposed as part of Appeal B would be visible in views with the listed building from Jones's Hill especially in the winter months. In addition, even though the scale of the dwellings is a reserved matter it is highly likely that the dwellings on plots 1-3 and 7-8 of Appeal A would be 2-storey given their



layout. As such, they are likely to be similar in scale to the dwellings shown on the submitted 8 Unit Site Section and parts of them are also likely to be visible from those views on Jones's Hill. Moreover, it is highly likely that the dwelling on plot 4 of Appeal A would be, in part, visible between the listed buildings from Jones's Hill. As such, the values that the appeal site contributes to the setting/significance of the listed buildings would be appreciably eroded.

31. The proposals would not physically harm the form, historic fabric or architectural features of the listed buildings. Besides, the level of intervisibility would alter during the year due to the intervening vegetation. In addition, as stated above I recognise that additional planting and landscaping would help to eventually reduce the visual impact of the developments. However, it would not fully mitigate the harm arising from either of the schemes.
32. I also acknowledge that a planning application has been submitted for a dwelling within the curtilage of Myrtle Farmhouse. This would increase the present amount of built form in close proximity to the listed buildings. However, it would be in a similar location to a former outbuilding and its design would reflect that of a vernacular outbuilding. Consequently, even if this building is developed it would not mitigate or noticeably alter the harm identified above from either of the schemes.
33. I acknowledge that the scheme for 2 dwellings would have a lesser impact on the contribution that the setting makes to the significance of the listed buildings than the scheme for 8 dwellings. Nonetheless, for the above reasons, it seems to me that both of the proposals would have an adverse impact on the setting of the neighbouring listed buildings and as such the significance of these buildings would not be preserved.
34. The appeal site adjoins the northern boundary of CCA and the conservation area covers the historic core of the village and is largely centred along St Marys Road. Based on the evidence before me, including the CCA Character Appraisal (CCACA) and my observations the character, appearance and significance of CCA is largely derived from the predominantly rural character and range of traditional buildings that it contains, together with its association with tourist based activities and uses, its use of materials, pattern of development and the relationship of buildings to the spaces around them. As stated above, the village has expanded with modern development along and fronting many of the roads. Nevertheless, the rural landscape setting of CCA has historic, evidential and aesthetic value as it allows for an appreciation and understanding of the historic evolution of the village and its links to agriculture and farming. As a result, it makes a positive contribution to the significance of CCA.
35. The appeal site adjoins part of the CCA northern boundary and forms part of that rural landscape in close proximity to CCA. From Moor Lane CCA is experienced and viewed in part across the appeal site. Moreover, the site is visible from AV 05 and CCA is also in part experienced from that viewpoint. In addition, as stated above even though the appeal site is not readily visible from Jones's Hill the trees within it are and there are glimpses into it between the listed buildings and the CCACA identifies the view of Myrtle Farmhouse and its barn from Jones's Hill as being a key view. Consequently, the site is within the rural setting of CCA. Taking into account all of the above, I am in no doubt that the largely undeveloped nature of the appeal site has a positive role in the contribution that this part of the setting of CCA makes to its significance.

36. Given my findings above in relation to the setting of the listed buildings I consider that both of the proposals would also have an adverse impact on the appreciation of and how the significance of this part of CCA is experienced and would therefore fail to preserve its setting.
37. In the language of the Framework, both of the proposals would result in less than substantial harm to the significance of the heritage assets on the basis that the developments would harm only part of their significance. In those circumstances, paragraph 196 of the Framework says that this harm should be weighed against the public benefits of the proposal including where appropriate, securing its optimum viable use. I have attached great weight to the desirability of avoiding any such harmful effect. I will return to this matter below.

#### *Spatial strategy*

38. LP Policy ST07 sets out the spatial development strategy for Northern Devon's rural area. Croyde is identified as a Village within this policy where development will be enabled within development boundaries and on allocated sites in accordance with the local spatial strategy. The appeal site is outside of the development boundary for Croyde and is not an allocated site. Therefore, for the purposes of LP Policy ST07 the site is to be treated as being in the countryside. Section (4) of LP Policy ST07 states that in the countryside beyond Local Centres, Villages and Rural Settlements, development will be limited to certain exceptions one of which is meeting local economic and social needs. The developments would not involve rural building reuse and they are not developments which are necessarily restricted to a countryside location. The supporting text to the policy, at paragraph 4.16, states that housing, adjoining a Local Centre, Village or Rural Settlement, may also be enabled on an "exceptions" basis to meet an identified local need that could not otherwise be addressed. It also states, amongst other things, that the character of the countryside should be conserved and enhanced.
39. LP Policy GEO relates to the Georgeham and Croyde Spatial Strategy. It states, amongst other things, that the spatial strategy will be delivered through a provision of a minimum of 37 dwellings in Croyde to meet the range of needs in the community. The supply of housing will be delivered through extant planning permissions and a single site allocation totalling approximately 15 dwellings on land off Croyde Road.
40. The proposal for 8 dwellings, Appeal A, would provide an element of affordable housing on the site and the submitted Georgeham Housing Needs survey indicates that there is a need for 18 affordable homes within the Georgeham Parish. As such, the proposal could meet a local need for affordable housing on an 'exception' site. LP Policy ST19 relates to proposals that deliver permanent affordable housing at Local Centres, Villages and Rural Settlements. It states that such proposals will be supported subject to a number of criteria a) through to h).
41. The Council does not dispute, in relation to Appeal A, that the proposal would only conflict with criteria g) which is that environmental and heritage assets are not subject to significant harm, are conserved or enhanced, with particular respect to the setting and special qualities of nationally important landscapes, biodiversity and heritage designations and the undeveloped coast. Even though, I have found that the harm to the overall AONB, HC and CEZ would be

limited and localised the special qualities of this landscape would not be conserved or enhanced. I have also found that the significance of the heritage assets would not be conserved or enhanced. As such, I do not consider that the proposal for 8 dwellings would comply with LP Policy ST19. It follows that the proposal would also not comply with LP Policy ST07.

42. The 2 dwellings that would be provided as part of Appeal B, would be market housing and that proposal would make a financial contribution towards the provision of off-site affordable housing through the submitted UU. However, LP Policy ST19 relates specifically to the provision of affordable housing on exception sites. The supporting text to the policy makes it clear the LP enables exceptional land release around defined settlements for the provision of sites for affordable housing in line with the requirements of LP Policy ST19. As the proposed dwellings would not constitute affordable housing I do not consider that this policy applies in this instance and the proposal would not comply with LP Policy ST07.
43. As the appeal site is between 2 parts of the settlement neither proposal would result in the development of isolated homes and they would therefore comply with paragraph 79 of the Framework. Due to its proximity to the centre of Croyde there is no dispute that the appeal site is within a relatively accessible location. Nevertheless, the same circumstances would arise in relation to other sites which are close to the development boundaries of this and other settlements identified as Villages within the spatial development strategy. This factor simply indicates that the proposal would not cause material harm in this respect.
44. Paragraph 78 of the Framework sets out that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. It is likely that the future occupiers of the dwellings would utilise and help to maintain the vitality of the services within the village. However, there is little evidence to suggest that the existing services and facilities within Croyde or the surrounding area are under threat or that either of the proposals would enable those services and facilities to be enhanced.
45. The proposals would involve the development of a small site which paragraph 68 of the Framework states can make an important contribution to meeting the housing requirement of an area.
46. As such, both proposals would comply with paragraphs 68, 78 and 79 of the Framework. However, the scheme for 8 dwellings when judged against LP Policies ST07, ST19 and GEO would not comply with the recently adopted spatial strategy. In addition, the scheme for 2 dwellings when judged against LP Policies ST07 and GEO would also not comply with the spatial strategy.

#### *Other matters*

47. I note the appellant's concern regarding difficulties communicating with the Council and its procedures for dealing with planning applications on the appeal site. However, that is not a matter for my consideration in the context of this appeal decision.



48. The appellant has drawn my attention to appeal decisions<sup>1</sup> and another development that has been built or approved in the area. However, I do not have the full details of the circumstances that led to these proposals being accepted and so cannot be sure that they represent a direct parallel to the appeal proposal. In addition, the appeal decisions and the development at Wycliff Cottage were all determined prior to the adoption of the LP. Moreover, the impact of the proposals on the natural and built environment is specific to the appeal site and its immediate surroundings. In any case, I am required to determine the appeals on their own merits.
49. The appellant has referred to the Council's Strategic Housing Land Availability Assessment (SHLAA) in respect of the appeal site. As set out in the Planning Practice Guidance (PPG), the SHLAA process includes a number of factors in assessing suitable sites for development. However, I am mindful that whilst the SHLAA is an important evidence source to inform plan making, it does not in itself determine whether a site should be allocated for development. The role of the SHLAA is to provide information on a range of sites to inform the development plan process.

*Public benefits – Appeal A*

50. It is not disputed that public benefits would arise from the scheme for 8 dwellings. The development would contribute to meeting the Council's housing provision, to which there is no ceiling. The submitted UU would ensure that 5 affordable houses would be provided and occupied in line with criteria e), f) and h) of LP Policy ST19. In this respect the UU would meet the requirements of paragraph 56 of the Framework. This affordable housing would also contribute towards meeting an acknowledged need in the Parish. I give appreciable weight to these matters taking into account the size of the scheme, the Framework's objective to significantly boosting the supply of homes and supportive stance towards providing affordable homes.
51. The appeal site is well located in respect of the settlement centre and it occupies a relatively accessible location. The removal of the campsite would noticeably reduce the amount of traffic generated from the use of the appeal site within the tourist season. The development as proposed would also result in support for local services and facilities, both during construction and after occupation. The proposal would also make a contribution to the local economy including the provision of construction jobs and some additional local spend. Given the amount of development proposed, these benefits would be likely to be modest in scale.
52. The dwellings would be energy efficient and designed to minimise waste. I note that planning conditions could ensure that there is an enhancement of biodiversity on the site through landscaping and other measures. These would provide modest weight in favour of the proposals.
53. The submitted UU also covers the timetable, management and implementation of the on-site public open space area and requires the appellant to make financial contributions towards secondary education provisions, off site open space provision and to provide mitigation to the nearby Braunton Burrows Special Area of Conservation. It also requires the appellant to enter into agreements with regard to the proposed highway works. These measures are

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<sup>1</sup> APP/X1118/W/17/3172416 & APP/X1118/W/16/3161459

necessary to mitigate the impact of the proposed development itself. They do not therefore attract positive weight, as public benefits, in support of the scheme. Moreover, if I had been minded to allow the appeal I would have explored the necessity for undertaking an Appropriate Assessment.

*Public benefits – Appeal B*

54. There would also be public benefits attributable to the scheme for 2 dwellings. It would also contribute to meeting the Council's housing provision. The submitted UU requires that a financial contribution is made towards the provision of off-site affordable housing. However, given my findings above in relation LP Policy ST19 I do not consider that the obligations within the UU in this respect would make the development acceptable in planning terms. Therefore, they would not meet the requirements of paragraph 56 of the Framework and do not have any weight for or against the proposal.
55. As stated above, the appeal site is well located in respect of the settlement centre and it occupies a relatively accessible location. The removal of the campsite would noticeably reduce the amount of traffic generated from the use of the appeal site within the tourist season. The development as proposed would also result in support for local services and facilities, both during construction and after occupation. The proposal would also make a contribution to the local economy including the provision of construction jobs and some additional local spend. Given the amount of development proposed, these benefits would be likely to be small in scale.
56. The dwellings would be energy efficient and designed to minimise waste. I note that planning conditions could ensure that there is an enhancement of biodiversity on the site through landscaping and other measures. These would provide modest weight in favour of the proposals.
57. The submitted UU in relation to this appeal also covers the timetable, management and implementation of the on-site public open space area and permissive path and requires the appellant to make financial contributions towards providing mitigation to the nearby Braunton Burrows Special Area of Conservation. It also requires the appellant to enter into agreements with regard to the proposed highway works. These measures are necessary to mitigate the impact of the proposed development itself. They do not therefore attract positive weight, as public benefits, in support of the scheme. Moreover, if I had been minded to allow the appeal I would have explored the necessity for undertaking an Appropriate Assessment.

*Planning balance – Appeal A*

58. Even though, I have found that the harm to the significance of the heritage assets is less than substantial it is not to be treated as a less than substantial objection to the proposal. The public benefits attributable to the proposal would be appreciable. Nevertheless, in my judgement their weight would not outweigh the great weight to be given to the harm to the heritage assets. As such, the proposal would not comply with paragraph 196 of the Framework. It would also conflict with LP Policies ST15 and DM07 which state, amongst other things, that great weight will be given to the desirability of preserving and enhancing northern Devon's historic environment and where there is unavoidable harm to heritage assets and their settings, proposals will only be supported where the harm is minimised as far as possible, and an acceptable

balance between harm and benefit can be achieved in line with the national policy tests.

59. Moreover, great weight is also to be given to conserving and enhancing landscape and scenic beauty in the AONB and I have found that the proposal would have an adverse impact on its landscape and scenic beauty.
60. The Council has stated that it can currently demonstrate a 5HLS by virtue of it being established in a recently adopted plan as set out in paragraph 74 of the Framework. The appellant has raised doubts about delays to the delivery of a number of dwellings on allocated sites that he considers would affect the Council's 5HLS together with a history of persistent under delivery. Nonetheless, even if I considered, that the Council could not demonstrate a 5HLS and therefore, with regard to footnote 7, point d) of paragraph 11 of the Framework applied in this case, point i. of that paragraph states that planning permission should be granted unless the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed.
61. Such areas/assets include land designated as AONB, defined as HC or designated heritage assets (Footnote 6). Having regard to my findings that the proposal would result in harm to the special character and qualities of the AONB and HC and in relation to the designated heritage assets and paragraph 196 of the Framework I consider that the application of the Framework's policies in relation to these assets provide a clear reason for refusing the proposal. Consequently, the presumption in favour of sustainable development contained in the Framework would not weigh in support of this case.
62. I have found that the proposal would conflict with LP Policies ST07, ST09, ST14, ST15, ST19, GEO, DM07 and DM08A. Taking into account paragraph 213 of the Framework I consider that these policies are consistent with the Framework and that therefore this conflict has full weight. Moreover, paragraph 15 of the Framework states that the planning system should be genuinely plan-led. I conclude that the proposal would conflict with the development plan as a whole. Consequently, whilst there would be benefits associated with the proposal, I consider that there are no material considerations, including the provisions of the Framework, of such weight to lead me to the conclusion that the proposal should be determined other than in accordance with the development plan.

*Planning balance – Appeal B*

63. The public benefits attributable to this proposal would be modest and in my judgement their weight would not outweigh the great weight to be given to the harm to the heritage assets. As such, the proposal would not comply with paragraph 196 of the Framework. It would also conflict with LP Policies ST15 and DM07. Moreover, great weight is also to be given to conserving and enhancing landscape and scenic beauty in the AONB and I have found that the proposal would have an adverse impact on its landscape and scenic beauty.
64. In line with my findings above in relation to Appeal A, taking into footnote 6 and paragraph 11 of the Framework I consider that the application of the Framework's policies in relation to the AONB, HC and the nearby heritage assets provide a clear reason for refusing the proposal. Consequently, the

presumption in favour of sustainable development contained in the Framework would also not weigh in support of this case.

65. I have found that this proposal would conflict with LP Policies ST07, ST09, ST14, ST15, GEO, DM07 and DM08A and given my findings above this conflict has full weight. Moreover, paragraph 15 of the Framework states that the planning system should be genuinely plan-led. I conclude that this proposal would also conflict with the development plan as a whole. Taking into account all of the above, whilst there would be benefits associated with it, I consider that there are no material considerations, including the provisions of the Framework, of such weight to lead me to the conclusion that the proposal for 2 dwellings should be determined other than in accordance with the development plan.

### **Conclusion**

66. For these reasons, and having had regard to all other matters raised, I conclude that both appeals should be dismissed.

*D. Boffin*

INSPECTOR