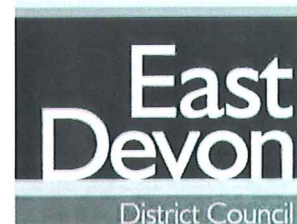


Agenda Item 7

Development Management Committee

5 February 2013



Five Year Land Supply in East Devon

Summary

At a recent appeal in Ottery St Mary the Council set out a case that there is a five year land supply in East Devon. Key arguments of the Council were, however, rejected by the Inspector and he approved the appeal, citing in his view, a lack of five year land supply. Consideration of future Planning Applications will need to take into account this appeal decision and the Inspector's reasoning. An onus should rest on granting approval of high quality schemes that are appropriately located.

Recommendation

That Committee endorse the requirement to secure a Six Year Land Supply and note the need for granting planning approval for high quality development proposals to help address land supply shortfall and address the objectives of securing sustainable development.

a) Reasons for Recommendation

To ensure that the Council are aware of the importance of a five year land supply and that this issue will need to be recognised as a material consideration in determining planning applications.

b) Alternative Options

The Ottery St Mary appeal suggests that until circumstances change (such as sufficient planning permissions are granted, new homes are built or the local plan and its allocated sites make further progress to adoption/is adopted) the Council would not be able to attach weight to land supply arguments in refusing planning permissions. The report recognises this fact and whilst there could be an option to have a more formal interim policy position to encourage appropriate site provision this would involve complexity to put in place (for example it may need public consultation) and in any case the local plan and its policy is close to examination. Considering planning applications in the light of current policy, the National Planning Policy Framework (NPPF) and relevant material considerations is deemed appropriate.

c) Risk Considerations

The risks to the Council, should we not approve more applications, are identified as:

- i. Not enough new homes being built to meet housing needs; and/or
- ii. If permissions are refused more schemes going to and being lost at appeal.

d) Policy and Budgetary Considerations

Appeals have cost implications and the building of new homes can generate jobs and money for the Council through New Homes Bonus and other sources. Granting permissions that are not on accordance with policy would, by definition, be contrary to policy.

Positive Impact Overall

Affordable Homes.

Thriving Economy.

e) Date for Review of Decision

April/May 2013, when land availability assessment will be rerun and Late 2013/Early 2014 when we can expect the Inspector's report into the local plan examination.

1 The Five Year Supply Issue

- 1.1 The Government wish to see more homes built and is concerned that supply of suitable and available land is a key factor restricting development. In response to this issue Council's are required under the NPPF to ensure that there is a sufficient supply of land available to accommodate housing needs for their administrative areas over the five year period looking forward. In simplified terms this means establishing the quantified need for housing (i.e. calculating how many houses should be built) and assessing whether sites and schemes that we can expect to be built will match or exceed the appropriate level.
- 1.2 At a recent appeal at Ottery St Mary (Inspector's report appended to this paper) the Inspector granted approval and Five Year Land supply was a key consideration. The Council's case was that we did have a suitable supply of land and in part this includes schemes that are proposed allocations in the emerging new local plan. The Inspector, however, found against the Council.

2 Quantifying Need for House Building

- 2.1 The first stage in assessment is quantifying or calculating housing needs. We have previously used the Structure Plan to establish required housing levels; this is the only adopted and non-time expired (in so far as setting out future housing requirements) policy document in operation. We have also used emerging Local Plan policy as a measure and it plans for 15,000 new homes across the 2006 to 2026 period. The Inspectors decision at Ottery St Mary, however, found favour with use (at the present time and as things stand) with a housing requirement figure for East Devon of 17,100 homes (this is as set out in the draft Regional Spatial Strategy) for

the 2006 to 2026 period. It is the evidence behind this figure rather than the policy of RSS that he considered relevant.

- 2.2 Until the Local Plan is adopted, or makes further progress towards adoption, it is considered most appropriate to assess housing needs against a 17,100 East Devon requirement across the 2006 to 2026 period.

3 Supply of Developable Sites

- 3.1 Set against the need for house building is the 'supply' of homes that we can expect to see built in the five year period looking forward. At the Ottery St Mary appeal the Inspector accepted that we should count sites built since 2006 and currently with planning permission as part of the supply and also that it is legitimate to make a small allowance for future windfall developments. However, the Inspector's did not consider it appropriate to include sites that are proposed as allocations in the emerging Local Plan. Also he did not consider that development at Cranbrook would proceed as quickly as the Council indicated.

- 3.2 In future calculations it is considered that we should discount sites that do not have permission (until further progress is made on the local plan/policy documents). However it is not agreed that at Cranbrook we will see the lower development levels envisaged by the Inspector. Recent substantial Government funding for Cranbrook has helped to set out a coherent case to realistically expect development of up to 500 homes a year at Cranbrook and this level of development exceeds Council predictions as presented to the Inspector at the Ottery St Mary appeal.

4 Splitting of East Devon into Two Areas for Land Supply Assessment

- 4.1 As part of the land supply assessment we have split East Devon into two parts
- a) The West End (Cranbrook, Pinhoe and north of Blackhorse); and
 - b) The Rest of East Devon.
- 4.2 Planning policy documents clearly refer to these separate areas, planning strategy clearly articulates separate areas and we have undertaken five year assessment of each area. In the West End, largely on account of Cranbrook starting late (but it is now being built at rapid rates) we do not have a five year land supply. But in the Rest of East Devon we exceed a five year supply position. The Inspector attached some weight to this split but took the overall District wide lack of five year supply as the critical issue. In this respect it is concluded that the Inspector considered housing numbers (and ensuring provision of a District wide level) to be (far) more important than the spatial strategy of plans and policies relating to the distribution of development.

5 Five Year Land Supply Calculations

- 5.1 A revised five year land supply assessment is tabulated on the next page/side. Assessment is to a 31 September 2012 base date and covers the five years period to 31 October

2017. It is produced to the same methodology as used in Council assessment of land supply at the Ottery St Mary appeal but includes the RSS housing needs figure and discounts the sources of supply effectively dismissed by the Inspector at the Ottery St Mary appeal. However the table does not adjust previous Cranbrook house building projections.

Table 1

Housing Requirements					
Strategic Housing Requirements for East Devon	Rest of East Devon	West End	East Devon Total	Row	Formula
RSS housing evidence requirement for 1 April 2006 to 31 March 2026 (20 years)	5,700	11,400	17,100	A	<i>Not Applicable</i>
Annual average requirement	285	570	855	B	<i>A/20</i>
Completions from 1 April 2006 to 31 March 2012 (6 years)	2,119	0	2,119	C	<i>Not Applicable</i>
Completions for 1 April 2012 to 30 Sept 2012 (6 months)	158	8	166	D	<i>Not Applicable</i>
Total completions from 1 April 2006 to 30 Sept 2012 (6.5 years)	2,277	8	2,285	E	<i>C+D</i>
Residual housing requirement to meet RSS requirements from 1 October 2012 to 31 March 2026 (13.5 Years)	3,423	11,392	14,815	F	<i>A-E</i>
Annual average housing requirement to meet 5 years from 1 October 2012 to 30 Sept 2017	254	844	1,097	G	<i>F/13.5</i>
housing requirement looking forward from 1 October 2012 to 30 September 2017 to meet RSS evidence needs	1,268	4,219	5,487	H	<i>Gx5</i>

Table 2

Five Year Supply - Homes Predicted to be Built Looking Forward for Five Years from 1 October 2012 to 30 Sept 2017					
Supply of Sites	Rest of East Devon	West End	East Devon Total	Row	Formula
Housing supply from sites with planning permission/under construction at 30 Sept 2012	1,571	2,620	4,191	I	<i>Not Applicable</i>
Other non west-end large sites with clear acknowledged development potential	0	0	0	J	<i>Not Applicable</i>
Future projected windfall allowance	280	0	280	K	<i>Not Applicable</i>
Proposed strategic allocations in the new emerging Local Plan	0	0	0	L	<i>Not Applicable</i>
Proposed non-strategic small site allocations	0	0	0	M	<i>Not Applicable</i>
Five year supply of developable sites	1,851	2,620	4,471	N	<i>I+J+K+L+M</i>

Table 3

Five Year Assessment Looking Forward - 1 October 2012 to 31 Sept 2017					
Years Worth of Land Supply	Rest of East Devon	West End	East Devon Total	Row	Formula
Annual RSS requirement based on 1/5th of 5 year requirement	254	844	1,097	O	<i>H/5</i>
The five year supply of deliverable dwellings	1,851	2,620	4,471	P	<i>Sum of N</i>
Years worth of supply	7.30	3.10	4.07	Q	<i>O/P</i>

- 5.2 Table 1 shows housing requirements and the final row shows need looking forward from 1 October 2012 to 30 September 2017 and establishes that over this five year period we should be seeing 5,487 new homes built. This calculation of

need is based on the premise that it is reasonable and appropriate to spread outstanding housing requirements (specifically this includes the backlog of past under development, or houses not built in past years, as well as future requirements) evenly over the full period of 1 October 2012 to 30 September 2026.

- 5.3 Table 2 establishes the number of homes that can be expected to be built over the next five year period and sets out a District wide figure of 4,471 new homes. It should be noted that a number of the rows in the table include a figure of zero. In past assessments some of these rows included actual positive numbers but following the Inspectors reasoning/logic in the Ottery St Mary appeal decision a zero figure is now used.
- 5.4 Table 3 shows the years worth of supply that is calculated to be available. It shows a District wide figure of 4.07 years though it is significant to note that the Rest of East Devon is at 7.3 years and the West End at 3.1. It is critical to note, as well, that the NPPF advises that where there has been persistent under-delivery of housing (this is the position in East Devon) we should be adding a 20% buffer to the five years. A 20% buffer added to five years equals six years and therefore we actually need to assess provision against a six year housing requirement.
- 5.5 In order to provide for six years supply against the above analysis we would need to see an increase of 2,114 additional new homes built against current build predictions. This would result in the building of 6,585 new homes over this five year period, an average of 1,317 a year. If we were to achieve this (and by implication meet one logical outcome of the Inspectors reasoning at Ottery St Mary) it would mean granting sufficient planning permissions to enable/ensure that this level of house building occurs. For this level of house building to occur over the next five years would very probably mean that permissions would need to be granted for more than 2,114 homes, quite simply because not all permissions granted could be expected to be built out over the five year period.
- 5.6 The methodology used to calculate five year land availability is not set out in formal guidance and it is considered that the approach set out above is sound and appropriate. However other approaches could be applied. For example our approach has been based on an assumption that it is appropriate to spread the backlog of past need evenly over the future years of the emerging plan (i.e. up to 2026). However, elsewhere others have taken the view that any backlog should be fully accounted for in the next five years period and not spread out evenly over a longer period. This approach is not regarded as appropriate, but, if we were to take this approach the five year requirement figure (Table 1) would increase from 5,487 new homes to 7,548 new homes. The upshot of this would be that the years supply figure would be 2.96 years and to secure a 5 year (plus 20% buffer) land supply would require development of an additional 4,586 additional new dwellings, or a total of 9,057 dwellings to be built over the next five year period (an average of 1,811 per year).

6 Potential Implications of Granting Permissions for a Very Large Number of New Homes

- 6.1 The increased home building levels that the analysis indicates could be appropriate suggest some potentially major challenges and issues. Firstly there is the very real

possibility of a significant numbers of planning applications being submitted in the near future with applicants presenting a case that we do not have a five year land supply. Whilst applications may come in there is, however, some doubt that it would be possible or reasonable to expect very high levels of house building to actually occur (almost regardless of permissions granted). It is questionable if the housing market could or would have capacity or the will to actually build very substantially greater number of houses; and aside from availability of building materials and workers it is unclear if prospective purchasers exists or even if there are reasonably credible schemes or sites that could come forward.

- 6.2 It is suggested that if very high levels of permissions were granted a possible outcome could be that developers would not build out schemes, or would only partly complete them, with a view to developing permitted sites over very much longer time periods (so called 'land-banking').
- 6.3 Furthermore granting very large numbers of planning permission could lead to very ad-hoc (unplanned) housing development that would not serve to implement planning strategy of the Council. In particular the very real possibility is that development would not be concentrated at the West End and rather would be dispersed across the rest of East Devon; this is the Rest of East Devon where we comfortably exceed, have historically exceeded and there is every expectation that we will continue to exceed in the years to come a five year (plus 20% buffer) land supply. Other outcomes of very large scale granting of permissions (or at its most extreme a possible development 'free-for-all') could include:
- a) a mismatch between development occurring and provision/availability of infrastructure;
 - b) the danger of inappropriate sites (eg because they are of landscape or environmental significance or in locations remote from facilities) being developed;
 - c) concern (and this may include concern by elements of the development industry itself) that the best and most appropriate sites, especially those requiring major infrastructure investment, will NOT be built. This is especially important for West End and if many easier and cheaper to develop sites gain permission it may weaken the confidence of the development industry to build out the more strategically important (but also challenging and expensive to develop) West End sites. This could have significant impacts on the confidence of other private and public sector investors and therefore overall social and economic well-being.

7 Future Action

- 7.1 In the light of the above considerations it is not regarded as appropriate to apply a 'free-for-all' or anything goes approach to granting planning permission. But the likelihood must remain (based on the reasoning used by the Inspector at the Ottery St Mary appeal) that we will, for some time at least, fall below having a five year land supply. Arguments of over-supply or even just having an acceptable supply of land will not therefore be a reasonable factor to use in refusing planning permission.

But ensuring adequate and appropriate land supply will be a positive reason to use to support good development schemes that will help contribute to the social, environmental and economic aspects of sustainable development (in some cases even where development lies outside of but typically abutting or very close to Built-up Area Boundaries). Sustainable development runs to the core of the NPPF and Government planning policy.

- 7.2 There are a number of larger planning applications with the Council, or expected soon, that should (in principle) be compatible with the current and emerging objectives of the Council and also the Government sustainable development agenda as set out in the NPPF. The onus will need to rest on securing appropriate and high quality permissions on these schemes, as well as appropriate smaller schemes, in order to achieve sustainable forms and patterns of development. This will entail moving away from the rigid application of local plan policy (especially policies relating to and defining Built-up Area Boundaries) with increasing onus being attached to use and application of the NPPF.
- 7.3 Later this year, and post Local Plan examination, the emerging new local plan should carry increasing weight and allocations in that document (certainly post adoption) should legitimately form part of the housing land supply. As part of the ongoing monitoring work the Council will need to reassess the overall land supply situation and it is planned that the full assessment work will be undertaken after the 31 March 2013 (to align with the standard monitoring year period of 31 March to the following 1 April).

Legal Implications

Emerging policies can only be given full weight and used with full planning certainty post examination when they have been found to be "sound".

Although not a "legal" implication the current "planning by appeal" (Feniton and Ottery) is not delivering the development that local communities want which is particularly frustrating given the amount of consultation that has taken place on the new local plan

As a matter of law applications must be determined in accordance with the development plan unless other material considerations indicate otherwise, and that the land supply is capable of being such a material consideration, but such applications, if approved, will be contrary to policy and may need to be advertised as "departures".

Financial Implications

There are no identifiable financial implications.

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Development Management
5 February 2013