

## PLANNING APPLICATION REPORT ADDENDUM

**Case Officer:** Thomas Jones

**Parish:** Stoke Fleming

**Ward:** Blackawton and Stoke Fleming

**Application No:** 3475/17/OPA

**Agent/Applicant:**

Mr Robin Upton  
Hawkridge House  
Chelston Business Park  
Wellington  
TA21 8YA

**Applicant:**

Millwood Homes (Devon) Ltd

**Site Address:** Proposed Development Site SX 857 506, Land south of Townstal Road, Dartmouth, Devon

**Development:** READVERTISEMENT (Revised plans) Outline application with some matters reserved (only access to be considered) for residential development of up to 210 dwellings, public open space, green infrastructure, strategic landscaping and associated infrastructure.

### Development affecting the setting of the AONB

This application was withdrawn from the 1<sup>st</sup> August DMC Committee Agenda. The reason for withdrawing the application was that Officers required time to clarify the interpretation of paragraph 172 of the NPPF, which had been issued on 24th July.

Paragraph 172 sets out the context for considering development that is likely to have an impact on an AONB. Officers were concerned that the text could be interpreted as requiring consideration of whether development in the setting of the AONB constitutes 'major' development and, consequently, that if it were deemed to be major development (for the meaning of that paragraph), it would be necessary to demonstrate that the two stipulated tests are met. The two tests are that the development is in the public interest and would be exceptional.

The Council has subsequently received legal advice that asserts the view that paragraph 172 does not require this test to be met for development outside the AONB. The conclusion is that the consideration in the original Officer Report provides the correct policy context, albeit that the references to paragraphs 115 and 116 of the NPPF 2012 should be replaced by reference to paragraph 172 of the NPPF 2018.

In addition to the consideration of the planning application the process of preparing, consulting and examining the JLP has involved careful consideration of how the housing (and other) needs of Dartmouth are to be met in the context of the landscape sensitivity of its location. The JLP evidence recognises that there would be harm to the landscape in taking forward the proposed TTV5 allocation. It is the view of the Council's Strategic Planning Team, noting the representation of the AONB Unit dated 31<sup>st</sup> July 2018, that it has been established that there is no other achievable and better means to meet the needs.

A point of significance in this respect is that on the 15<sup>th</sup> August the JLP Inspectors issued their post hearing Advice Note (JLP Library / evidence reference EXC15). This makes no reference to the need to amend Policy TTV5, which sets out the boundary and detail for the proposed allocation of the land in question. The Council is, therefore, proposing that the JLP includes the land that is subject to this application as part of the proposed allocation TTV5. It is considered that Policy TTV5 can now be given significant weight.

## **Further representations**

Following the withdrawal of the application from the DMC of 1<sup>st</sup> August three further representations gave been received. These are from the Parish Council, a resident and Devon County Council. These can be seen on the Council's website.

The Parish Council re-iterates its objection and responds to the Officer Report. The matters raised have previously been considered in the Officer Report other than the specific comment regarding the status of the Stoke Fleming Neighbourhood Plan and the need to take into account paras 8.5.1, 8.5.2, 8.5.7, 8.5.8 and Policy E3 of the SFNP.

Paragraph 2 of the NPPF states that planning law requires that applications for planning permission be determined in accordance with the development plan, and that this includes any Neighbourhood Plan that 'has been brought into force'. Section 70(2) of the Town and Country Planning Act has been amended by the Neighbourhood Planning Act to require regard to be had to a post-examination draft neighbourhood development plan, so far as material to the application. Whilst the SFNP has not been brought into force it is appropriate that the Plan should be given weight since it has passed the Examination stage and is proceeding to referendum. In doing so it is also noted that the policies it contains take precedence over existing non-strategic policies and that the NP will need to be in accordance with the emerging JLP where policies have weight. Policy TTV5 is a strategic policy as it is critically important to delivering homes in the Dartmouth area and carries significant weight.

Paragraphs 8.5.1, 8.5.2, 8.5.7 and 8.5.8 refer to the objectives of protecting locally important views, the integrity of the AONB, and that development detracting from the boundaries 'will' not be permitted; landscape character, flagging the harm caused by linear development on the A379; and the general objectives of AONB designation

These matters, including the impact of light pollution, have all been taken into account in the process of preparing the JLP and in considering the planning application.

Policy E3 refers to the Stoke Fleming Wildlife and Biodiversity survey 2017 and the importance of protecting trees.

It is noted that the survey (full title 'Wildlife site resource map and species information for neighbourhood planning – Stoke Fleming') indicates an area of semi-improved neutral grassland at the site (reference SX85/058); and makes references to a number of species including bats and cirl bunting. It should be noted that this information is reflective of a desk study and is high level information only. The same desk study information is included and elaborated upon in significantly more detail, as informed by a raft of detailed ecology site surveys for cirl buntings, bats, reptiles, badgers within the Ecological Impact Assessment that was submitted by the applicant. The necessary mitigation and compensation for the proposal to be policy compliant are detailed in the Biodiversity specialist consultation response (dated 25<sup>th</sup> May 2018), with appropriate measures included in the conditions and will be included in the s106 Agreement.

With respect to trees, appropriate survey work has been undertaken to inform the planning application. Their inherent value and value as part of the landscape have been considered and conditions would be applied to ensure protection and landscape management.

The parish council has also highlighted the problem of traffic on Venn Lane, and has requested additional measures to be included in the s106 Agreement. It is the view of the County Highway Authority that the proposed measures could not be required. The view of SHDC Officer is that whilst it is not appropriate, therefore, to require any additional measures, this will be discussed with the applicant at the Reserved Matters stage.

**Highway Consultation Response of Devon County Council, dated 20th September 2018, with respect to application 3475/2017/OPA.**

In this response DCC advises that 'Due to the issues with the A379 Slapton Line and the fact the Department for Transport has stipulated this will be last time it will potentially fund repairs to the Slapton Line, the Highway Authority is strategically thinking about alternative routes and their suitability. The A3122 will inevitably form the only suitable strategic route for many villages and Dartmouth on the A379. The Highway Authority is therefore aiming to develop a road widening scheme through the Norton Narrows to improve an existing bottleneck and safety issue.'

DCC requested that the applicant is given time to consider the comments of DCC with respect to securing contributions (payment and / or land) towards widening the Norton Narrows and / or work to achieve this. Accordingly, the application was withdrawn from the Development Management Committee of Wednesday 3rd October.

A formal response has subsequently been received from the applicant, who advises that they are not willing, as part of this application, to make a payment, contribute land or carry out work.

In the light of this it is my view that the Council could not require that the obligation request is incorporated in a s106 agreement since it would not be in accordance with the provisions / tests of paragraph 56 of the NPPF 2018 or the CIL Regulations.

A resident has responded to the comments of the highway Authority, suggesting that no development should take place until the work is carried out. Since the work is not necessary to make the development acceptable this would not be an appropriate course of action.

In making the previous comments it is important to stress that the Council takes highway safety seriously and will work with DCC to bring forward a programme of work to improve safety along the Norton Narrows in the context of the future loss of the Slapton Line.

DCC also advises that 'it is noted the roundabout linked to the site on the A road originally showed either block paving or concrete imprint with a 15mm upstand kerb as an overrun area for HGVs. It is preferred from a maintenance and safety perspective the kerb is made flush so that motorcycles are not adversely affected and the block pattern is replaced with a coloured tarmac. Clarity is requested from the Planning Authority on this matter as to whether any objections are likely to arise from such a change to the design.'

It is considered that this change is acceptable and can be rectified at Section 278 stage.

END  
29<sup>th</sup> October 2018