

**NOT FOR PUBLICATION**

Exempt information – paragraph 3, Sch 12A (Information relating to the financial or business affairs of any particular person (including the authority holding that information))

		<b>Committee Date: 18.10.2011</b>
<b>Ottery St Mary Rural (OTTERY ST MARY)</b>	<b>10/2435/MFUL</b>	<b>Target Date: 14.03.2011</b>
<b>Applicant:</b>	<b>Devonshire Homes</b>	
<b>Location:</b>	<b>Land South Of Otter Close Tipton St John</b>	
<b>Proposal:</b>	<b>Proposed erection of 56 new dwellings (including 22 affordable), Construction of new Highway access, the closure of the "sunken lane" to vehicles and the creation of a new footpath/cycleway</b>	

**RECOMMENDATION:** That reason for refusal 1 as previously agreed by Members is confirmed and that reason 1 identified on the decision notice issued on 11 March 2011 is withdrawn.

**EXECUTIVE SUMMARY**

This report has been submitted to confirm that the resolution made by Members at the Development Management Committee on 8 March 2011 and subsequently approved minutes, agreed by Members at the Development Management Committee on 8 April 2011, were a true and accurate reflection of their views in respect of the above application. This is not because there is any doubt in officers minds or with regard to the minutes of the meeting over what was agreed it is simply because it is being queried by the appellants for the current appeal and considered beneficial for Members to confirm their resolution so that there can be no doubt in the Inspectors mind when considering the appeal. Furthermore that reason for refusal No.1 as indicated on the decision notice as dated on 11 March 2011 is incorrect and has no relevance to this application or its reasons for refusal. Bearing this in mind delegated authority is sought to withdraw the reason as stated on the decision notice. This again being to avoid any doubt at the appeal.

**ADDENDUM REPORT**

This report has been brought to Members to clarify the Council's position regarding the reasons for refusal of the above application. Members at the DM committee on 8 March 2011 considered this application for the erection of 56 dwellings at Tipton St John and agreed with the Officer recommendation of refusal. The reasons for

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refusal were as per the submitted report, with no changes to the wording or content being agreed. This was confirmed by the minutes that were agreed by Members at April's DM committee. There is therefore no doubt in officers minds or with regard to the minutes as to what was agreed, however due to an administrative error the decision notice that was issued had an incorrect reason (reason 1) on it that was totally unrelated to the application. This reason stated:

1. *The proposed development by reason of its position on an elevated parcel of land which is recognised as both open countryside and an Area of Outstanding Natural Beauty and which is afforded the highest level of landscape protection, represents sprawling and unjustified development which would harm the natural beauty of the area. In failing to conserve or enhance the Area of Outstanding Natural Beauty, the proposed development is considered contrary to Regulations in the Countryside and Rights of Way Act 2000; guidance in PPS1 (Delivering Sustainable Development), PPS4 (Planning for Sustainable Economic Development) and PPS7 (Sustainable development in Rural Areas), Policies C01 (Landscape Character and Local Distinctiveness) C03 (Areas of Outstanding Natural Beauty), and C06 (Quality of New Development) of the Devon Structure Plan and Policies S5 (Countryside Protection), EN1 (Development affecting Areas of Outstanding Natural Beauty) and D1 (Design and Local Distinctiveness) of the adopted East Devon Local Plan 1995-2011.*

The site is not within the Area of Outstanding Natural Beauty and the reason is not appropriate or relevant to this application.

Unfortunately there is no legal mechanism for an amended decision notice to be issued. The application has now gone to appeal and this was when the error was picked up. A letter was sent to the appellants and the Planning Inspectorate shortly after the appeal was lodged clarifying Members decision and stating that the Council's case on appeal would be based on Members resolution and not the decision notice that was issued with respect to reason for refusal 1.

The appellants are arguing that the reason for refusal is that included on the decision notice. This is not accepted by Officer's who have taken legal advice and will be defending the agreed reason for refusal.

Members are therefore requested to confirm, so that there can be no doubt, that reason 1 for refusal was as agreed at committee and worded as follows:-

1. *"The proposed development would take place on an unallocated site in the open countryside where due to:
  - a. the Local Plan development strategy which seeks to resist development in such areas (where not supported by other specific policies in the Local Plan);
  - b. the extremely limited weight that can be attributed to the emerging Local Development framework which is currently in its infancy;*

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- c. the intended abolition of the South West Regional Spatial Strategy as a result of the Localism Bill and the limited weight that can be attributed to this policy document; and*
- d. the ability to demonstrate through the Annual Monitoring Review that there is a sufficient 5 year land supply within the sub area where the application lies,*

*there are no material planning reasons to depart from the adopted Plan Policy. To do so would undermine the adopted strategy and result in unplanned and speculative development in the countryside where there is no identified need for local regeneration or additional housing. The primary focus for strategic development to provide the bulk of Devon's new housing and economic investment should be focussed within or around identified PUAs – minimising the need for commuting, maximising accessibility to employment and supporting Exeter's regional economic role. The proposed development is therefore considered contrary to guidance in PPS1 and PPS 3, Policies ST1 (Sustainable Development), ST5 (Development Priority), ST16 (Local Centres and Rural Areas), ST10 (Exeter Principal Urban Area) ST17 (Housing and Employment provision) TR2 (Co-ordination of Land Use/travel Planning), TR5 (Hierarchy of Modes and Transport Assessment) of the Devon Structure Plan, Policies S5 (Countryside Protection) & TA1 (Accessibility of New Developments) of the adopted East Devon Local Plan."*

Members are further requested to withdraw the reason identified on the decision notice that was issued on 11 March 2011 which was clearly included on the decision notice in error.

### List of Background Papers

Application file, consultations and policy documents referred to in the report.