

Feniton Neighbourhood Plan

2016–2031

[Final version for submission for referendum]

Feniton Parish Council

February 2018



Foreword

Feniton's Neighbourhood Plan outlines the vision of the people of Feniton in terms of planning for its future. Neighbourhood Development Plans were introduced by the 2011 Localism Act to give local people more say about the scale and nature of development in their area, recognising the current Government planning laws encapsulated in the National Planning Policy Framework (NPPF) of 2012, and the adopted East Devon Local Plan 2013–2031.

The Feniton Neighbourhood Plan – 'the Plan' – covers the following topics: Education, Employment, Environment, Future development, Health and care, Transport, and Social, leisure and communications.

The Plan will run to 2031 to coincide with the end date of the Local Plan, but will need to be reviewed at five-year intervals to ensure that it continues to reflect the views of the current residents and responds to their needs in terms of housing provision.

The Plan has been drafted by members of the Feniton Neighbourhood Plan Steering Group¹ and is the result of extensive community consultation and engagement over a period of three years. This is the final version of the Plan for formal submission to East Devon District Council and eventual referendum, before being finally 'made'. A summary timeline of the progress of the Neighbourhood Plan through its various stages is provided as Appendix 5.

We believe that this Plan represents a broad consensus of local opinion, based on what we have been told to date, and is submitted to East Devon District Council for consideration.



View of old Feniton

Acknowledgements

Feniton Parish Council would like to express its gratitude to the many volunteers who have worked selflessly on the Neighbourhood Plan Steering Group, particularly Jenny Wilson; to the district council officers (and in particular, Tim Spurway, Claire Rodway, Linda Renshaw and Phil Twamley) for their advice and input; to Stuart Todd, of Stuart Todd Associates; to Martin Parkes of Devon Communities Together; and to those whose photographs are included in this document. The Parish Council also wishes to acknowledge the very many local residents whose opinions were given so passionately and who helped to formulate the Plan.

Martyn Smith
Chairman, Feniton Parish Council, February 2018

¹ Membership of the Steering Group is provided as Appendix 1.

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1 Introduction

1.1 Planning law in England

The main national Planning Acts in force at present include the Town and Country Planning Act 1990, the Planning and Compensation Act 2004, the Planning Act 2008, the Localism Act 2011, and the Housing and Planning Act 2016. The concept of Neighbourhood Plans was introduced in the Localism Act 2011. Neighbourhood Plans need to meet what are termed 'Basic Conditions', i.e. they must:

- generally conform with the strategic policies of the formally adopted Development Plan for the area;
- have regard to national policies and advice contained in guidance provided by the Secretary of State;
- contribute to achieving sustainable development;
- be compatible with European Union (EU) law and human rights obligations.

In addition to the Acts referred to above, the main policy guidance provided by government is embodied within the National Planning Policy Framework (NPPF) of 2012. This sets out guidance to local planning authorities, planning applicants and local communities on how the government expects the planning system to be delivered, in support of both economic regeneration and environmental protection. The NPPF can be viewed and downloaded at

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/60777/2116950.pdf

1.2 Local and neighbourhood planning policy

Like all neighbourhood plans, the Feniton Neighbourhood Plan has to be in general conformity with the strategic policies in the statutory Local Plan for its area. This is the adopted East Devon Local Plan 2013–2031 ('the Local Plan'),² prepared by East Devon District Council (EDDC) and which sets out policies and proposals for the future development of the whole district for the next fourteen years. The Local Plan was formally adopted in January 2016, having been found 'sound' following examination by an independent Planning Inspector. The Neighbourhood Plan adds more local detail and policies than would be appropriate for inclusion in the district-wide local plan.

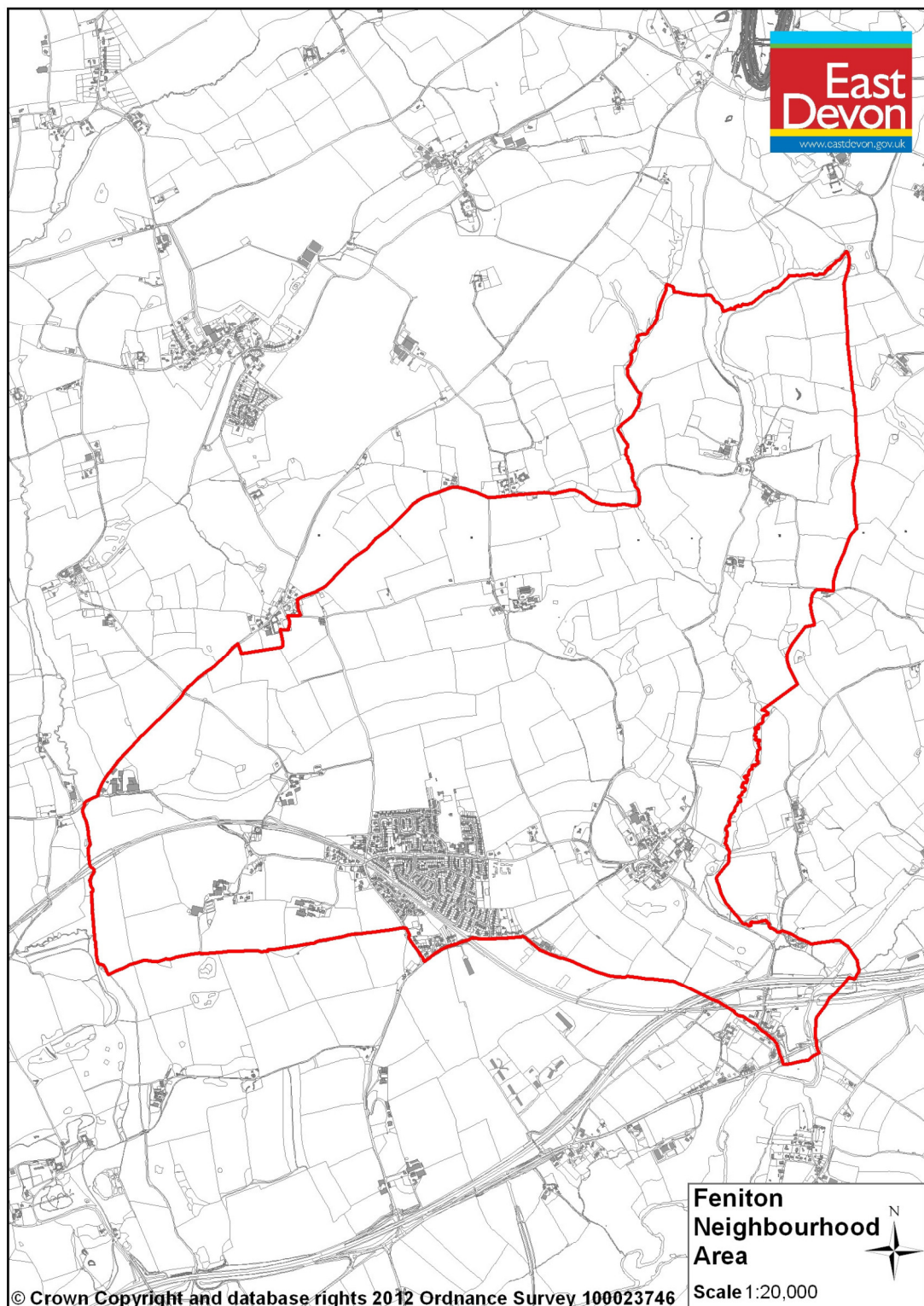
Within the context of the Local Plan, Feniton sits in Strategy 27 (Development at the Small Towns and Larger Villages). The Local Plan's vision for smaller towns, villages and the countryside is one of 'seeking to accommodate modest development that supports and complements rural areas whilst helping to sustain their intrinsic qualities and appeal. This will need to be achieved in the context of planning for development in the highest quality of built and natural environmental settings whilst supporting communities' social well-being and respecting the intrinsic features that help define the character of rural East Devon. But all the time recognising that rural East Devon has been designed and shaped by farming and rural practices and these will need to remain an intrinsic part of the future' (p. 89). This vision, as witnessed by responses and concerns raised as part of the Neighbourhood Plan consultation process, is shared passionately by the people of Feniton. The decision to draw up a Neighbourhood Plan has been directly informed by these values, and the desire of the community for Feniton to grow in a sustainable and appropriate manner.

² <http://eastdevon.gov.uk/media/1772841/local-plan-final-adopted-plan-2016.pdf>

An end date of 2031 for the Plan has been chosen in order to complement the end date for the Local Plan, and Feniton Parish Council commits to undertaking quinquennial reviews of the Plan to ensure that it remains fit for purpose. (Assuming the Plan is approved in 2017, this would mean formal reviews in 2022, 2027, and a final review in 2031.)

2 The Neighbourhood Plan Area

Parish of Feniton: the designated area covered by the Neighbourhood Plan. The area was designated on 3 September 2014.



3 Feniton within its wider context

3.1 The general pattern of settlement

Feniton is just off the main A30 trunk road, 11 miles east of Exeter, 5 miles from the market town of Honiton, and 3 miles from Ottery St Mary.

The village of Feniton dates back to pre-Norman times, being mentioned alongside the nearby town of Ottery St Mary in a charter from 1061, detailing the boundary between the two parishes, a boundary marked today by a commemorative stone on the outskirts of the village. Feniton is also mentioned in the Domesday Book, along with the hamlet of Curscombe.



Stone marking the boundary between Ottery St Mary and Feniton



St Andrew's Church, old Feniton

Today the old part of the village includes the 13th-century church, a hairdresser and the village hall, and a number of thatched cottages.

The Vine Water, a tributary of the River Otter, runs nearby, and is generally believed to have given the village its name.

The newer part of the village lies approximately 0.75 miles west, and is separated by open countryside. This area was formerly known as Sidmouth Junction and for many years consisted of just a few houses and a public house and a chapel, which were associated with the building and operation of the railway station of the same name.

More recent development has included a primary school, a village shop, a playing field, a sports and social club, a private dental practice, a hairdresser and a fast food takeaway. In 1967, the original Sidmouth Junction railway station and its associated branch line were closed as a result of the Beeching cuts.



Wells Avenue, new Feniton



**Road between old Feniton
and Curscombe**

The station was reopened by British Rail in 1971, following extensive lobbying by the residents, with the new name of Feniton, offering a limited service to Exeter and London Waterloo.

The outlying areas of the Neighbourhood Plan area are characterised by small groups of houses which have grown up around farmsteads, as well as isolated cottages.

3.2 Facts and figures

A search of the national census archives reveals the sporadic, and at times explosive, growth of Feniton. The census of 1801 recorded the population of the village at 252 and this figure remained reasonably static up to 1961 when it was recorded at 320. The census of 1971 (just 10 years later) demonstrates the rapid increase of the population in new Feniton, when the figure was recorded at 1,069 and rose again by 1981 when it was recorded at 1,586. Despite increased development since 1981, the population figure has remained largely the same, which demonstrates the trend for single-person homes and smaller families.

The population of the village in 2011, according to the national census, was 1,568. The ward profile conducted by Local Futures in November 2013³ characterised Feniton as follows:

- a knowledge economy and enterprise culture that performs in the bottom 20% of wards nationally;
- a resident workforce that performs in the middle 20% of wards by national standards;
- a resident workforce that is in the top 20% nationally by wards in terms of those in employment;
- an average age of residents in the highest 40% of wards nationally;
- the average household size/proportion of owner-occupiers puts Feniton in the middle 20% of wards nationally;
- standards of health are in the top 40% of wards nationally;
- in the bottom 40% of wards nationally in terms of the use of public transport as a means of getting to work/access to local services.

The general picture that emerges from this section is that of a small rural community, located in the East Devon countryside. The older part of the village can trace its history back to at least the time of the Norman Conquest while the much larger 'new Feniton', separated by open countryside, owes its existence to the coming of the railway. Agriculture continues to shape Feniton's environment. The community may be characterised as having a relatively high proportion of those in older age groups, with relatively poor access to local services.

³ <http://eastdevon.gov.uk/media/996709/summary-place-profile-feniton-and-buckerell-nov-2013-29120.pdf>

4 Key issues

The key issues to be addressed in Feniton's Neighbourhood Plan were established in extensive public consultation exercises outlined in the Consultation Statement which accompanies this document.

The first consultation events were held at the annual village fair ('Feniton Fun Day') and St Andrew's Fair (both in 2014). From these public discussions a questionnaire was written and a copy distributed in October 2015 to every resident (over the age of 18) in the Neighbourhood Plan area. A total of 1,730 questionnaires was distributed, with a response rate of 43%. Statements were posed and the respondents were asked to rate them according to a Likert Scale. In addition, space was allowed for free text, so that the Neighbourhood Plan Steering Group could be completely appraised of the concerns of those who responded. In April 2016, the responses were analysed and an analysis report written.⁴

4.1 Education

Education is an important topic for the majority of the village, and there is a strong view that the school offers an excellent provision for the village and needs protecting. Many comments suggest that the size of the school has reached a limit in being able to cater for the demand from the parish (and beyond), and that this is an important issue when considering future growth without adequate infrastructure in place.

4.2 Employment

Feniton residents tend to travel to work outside the parish as there are limited employment opportunities within the parish. The issue of employment within the parish raises several issues in relation to the Neighbourhood Plan for Feniton. These issues are inextricably linked to transport and the weaknesses of the public transport provision serving the village. Also many respondents complained about the road infrastructure and its ability to safely absorb additional demand, following new housing development, given the dependence upon the car to get to work for most.

4.3 Environment

There is a strong view that any new development will need to wait until there are sufficient flood alleviation and prevention measures in place. Given the on-going flood events within the old and new village areas, this is not at all surprising. There is also a clear wish to have the village retain its rural character, as indeed was recognised at the 2014 Public Inquiry, when concerns were raised frequently that more development would destroy what makes Feniton unique. Indeed the Campaign for the Protection of Rural England featured Feniton as an example of the dangers of unfettered development in its report *Countryside Promises, Planning Realities* of March 2013.⁵

4.4 Future development

It is clear from the questionnaire responses that there is an acceptance that there will need to be future development within Feniton parish, but many voiced concerns that future development should not exacerbate existing flooding problems. The vast majority of respondents wanted any

⁴ <https://fenitonparishcouncil.files.wordpress.com/2016/05/feniton-neighbourhood-plan-updated-analysis-of-questionnaire-20-april-2016-final-version.pdf>

⁵ <http://www.cpre.org.uk/resources/housing-and-planning/planning/item/3260-countryside-promises-planning-realities>

new development to be situated within the Built-up Area Boundary (BUAB) (Appendix 6). Any new development should include 50% affordable housing, with a choice of sizes to accommodate larger families. The replies suggested that the majority of parishioners wish to see fewer than 50 new homes within the first 5 years and a similar growth pattern over the subsequent 10 years.

For this reason, and others stated within the Key Issues, it would be inappropriate at this stage to allocate sites for development. At the time of writing (September 2017), there are 32 houses under construction in Acland Park, the development of which follows closely on the development of 50 houses in Winchester Park. Both these developments were won at appeal, and in fact every appeal decision affecting Feniton made since 2012 has raised the issues of the lack of sustainability and ever-present concerns about surface water flooding in the area. It was seen as important to allow the village to concentrate on bringing the social and environmental aspects of the community into equilibrium with the large-scale unplanned developments that had been built, or were in the process of being built, at the time of writing the plan.



Flooding in Station Road, new Feniton

However, looking to the future, residents of Feniton are mindful of the national drive for development and the needs of future generations to live independently. Many comments on the Neighbourhood Plan questionnaire made reference to the need for the village to grow incrementally and not be swamped by large-scale developments such as were proposed by developers at the Feniton public inquiry in January 2014.

At the 5-year review of Feniton's Neighbourhood Plan, the effect of any new housing requirement figures for East Devon District Council on Feniton will be assessed. If, at this time, East Devon District Council is looking towards the Strategy 27 communities to take some level of development, the wishes of the people of Feniton will be a major force for the choice of site(s) put forward.

4.5 Health and care

In the absence of a medical practice within the community, some thought needs to be given as to how that omission might be rectified. There is strong support for a volunteer-led support service and for sheltered accommodation for an ageing population. Also there is strong support for improved walking provision throughout the village, and for a cycle path to Ottery St Mary and Sidmouth to improve health and safety.⁶ The network of public rights of way and bridleways around the immediate area are much valued and enjoyed by walkers (Appendix 4).

4.6 Transport

There is a strong view that while Feniton has a railway station, the service is not adequate for the needs of the community and therefore in many cases the use of other modes of transport (bicycle, bus, car and car share) is the most effective solution for work and other uses.

⁶ The Neighbourhood Plan Steering Group noted that support for such a cycle path features as Policy NP10 in the draft Neighbourhood Plan for Ottery St Mary, and that there is scope for co-operation between the two Parish Councils as a result.

4.7 Social, leisure and communications

A majority of respondents acknowledged that there is a requirement to look forward and to embrace the views of the youth of the parish in working up the Neighbourhood Plan for Feniton. The existing community assets are greatly treasured, and the need for a community-owned green space is seen as essential moving forward. Infrastructure – or lack of it – has played out very badly in the recent history of Feniton, and so it is not surprising that almost all respondents saw this as a vital part of the Neighbourhood Plan, i.e. to ensure that any new development is absolutely sustainable and establishes Feniton as a prime place to live and thrive.



Level crossing, new Feniton



Convenience store, new Feniton

5 Vision and Objectives

5.1 Vision

Feniton will continue to be a thriving and vibrant village community which protects and enhances its distinctive character, rich heritage and its rural setting, and will grow to be an even better place for young and old in which to live.

5.2 Objectives

- **Objective 1.** Promote efficiencies and improvements to the **strategic transport network** to improve currently poor connectivity between Feniton and the major centres of Ottery St Mary, Honiton and Exeter; development only to be supported when it is proposed in conjunction with sustainable transport solutions.
- **Objective 2.** Secure and maintain effective **flood alleviation** for both the old and new parts of the village, whilst also minimising and managing flood risk, including taking into account the impact of any new housing.
- **Objective 3.** Promote small developments within the Built-up Area Boundary (BUAB), which allow a range of houses, broadening the choice from affordable housing to larger family homes, for local people.

- **Objective 4.** Promote opportunities for young people to access **education, community facilities and leisure** within the village.
- **Objective 5.** Preserve and enhance the **rural character and historic environment** of the village and the wider landscape.
- **Objective 6.** Promote the provision of an **open green space** for use by the village.
- **Objective 7.** Support the provision of **local medical facilities**.



Old part of Feniton



Ottery Road, new Feniton

6 Strategic planning issues

6.1 Development principles

National Planning Policy Framework

The NPPF has a presumption in favour of sustainable development, but also emphasises the importance of the Development Plan which should be the basis of decisions on planning applications (Section 11 of the NPPF). Once approved, this includes the Neighbourhood Plan. Section 16 of the NPPF highlights the need to reflect strategic policies in the Local Plan and to provide a local framework for development in Neighbourhood Plans.

East Devon Local Plan

Feniton is one of the communities listed in Strategy 27 'Development in small towns and villages' of the Local Plan. The strategy recognises that communities incorporated under this policy '... vary in size and character but all offer a range of accessible services and facilities to meet many of the everyday needs of local residents and they have reasonable public transport. They will have a Built-up Area Boundary that will be designated in the East Devon Villages Plan though they will not have land specifically allocated for development'.

Feniton Neighbourhood Plan

The consultation responses clearly indicate that local residents value Feniton's close-knit community and environment, but have serious concerns about traffic, over-development and the importance of maintaining its individual identity. This plan represents the most detailed and local level of planning, but the policies in the plan are set within the context of both the NPPF and the Local Plan.

7 Neighbourhood Plan policies

This section details Feniton's Neighbourhood Plan policies and should be read in conjunction with the Basic Conditions Statement, which outlines how these policies conform with the adopted Local Plan and national planning guidance (NPPF). Where local and Neighbourhood Plan policies relate to the same issue, the Neighbourhood Plan policies should be read in conjunction with those policies contained within the Local Plan.

7.1 Strategic transport network

Objective 1. Promote efficiencies and improvements to the **strategic transport network** to improve currently poor connectivity between Feniton and the major centres of Ottery St Mary, Honiton and Exeter; development only to be supported when it is proposed in conjunction with sustainable transport solutions.

Policy T1 Proposals for new development will only be supported where they demonstrate that they will, in proportion to the scale of development proposed:

- i) minimise any adverse impact of additional traffic, such as increased volume of traffic at peak times which could lead to congestion, increased levels of pollution or increased speeds which may compromise pedestrian and cyclist safety;
- ii) improve accessibility to and safe use of pedestrian and cycle routes through enhancement of existing or provision of new routes;
- iii) not lead to an unacceptable increase in existing HGV movements in and around old and new Feniton;
- iv) not exacerbate existing parking problems in and around old and new Feniton; and
- v) development that would generate significant new traffic should be accompanied by a Transport Statement or Assessment, indicating how the adverse impact on the transport network and infrastructure could be mitigated, and including a Travel Plan designed to encourage more sustainable travel behaviour.

Policy T2. Proposals for development will only be supported where they provide safe, convenient and pleasant pedestrian and cycling routes to the village centre and to principal facilities including the school, including safe and convenient crossings, where practical and the location of the proposal suggests a need for such routes.

The established footpath network around the Parish is detailed in Appendix 4. The provision of a cycle link utilising the previous railway line to Ottery and beyond to Budleigh Salterton is seen as an important objective to be achieved for the community. It was flagged up by the local population as important during consultation on the neighbourhood plan. It is also referenced in Policy TC5 of the Local Plan.

As a rural community, approached by narrow country lanes with limited passing spaces at every entrance to the village, transport is a key issue for the residents of Feniton. Public transport is considered by local people to be poor, in spite of the fact that new Feniton unlike many other settlements in East Devon has an operational railway station. Car ownership and car usage levels

in Feniton are high.⁷ The Local Futures survey of November 2013 was particularly clear about the critical role played by the car in respect of villagers commuting to/from work.⁸

Congestion. Feniton suffers from traffic congestion especially at peak times of day, including at each end of the school day. Movement of HGVs through the village to work units nearby and as a short cut to major road arteries should be minimised/discouraged.

Safety. Speeding through the village has been a complaint of many residents over many years, and given the lack of pavements, particularly between old and new Feniton, there are grave concerns about safe walking and cycling on the roads around the village.

Sustainability. Questionnaire responses highlighted inadequate access to public transport. While Feniton benefits from a railway station, the timetable is constrained by the single track with no passing places for trains between Honiton and Pinhoe. While there are plans to put in a passing loop at Whimple, which should increase the frequency of service, this has been envisaged for some time and will require considerable investment in infrastructure to see it come to fruition. Questionnaire responses demonstrated a genuine appetite for cycling and, in particular, the opening up of a cycle route along the disused railway from Feniton to Sidmouth, and on to Budleigh Salterton. Feniton is served by a limited bus service which is used by shoppers who wish to visit Ottery St Mary and beyond. It is rarely used by those travelling to work.

Where feasible and viable, support will be given to measures which would improve the provision of public transport services in Feniton, and encourage local people to use trains and buses (or cycling and walking) in preference to the private car. Reduced car usage reduces greenhouse gas emissions and air pollution which is harmful to health, as well as helping to reduce traffic congestion.

7.2 Environmental protection

Objective 2. Secure and maintain effective **Environmental Protection** for the parish, whilst also minimising and managing flood risk, including taking into account the impact of any new housing.

Policy F1 Proposals for development will only be supported where they:

⁷ The Parish Plan questionnaire of 2006, a time when public transport services were better than today, revealed that of the 203 households responding to a question about car ownership, 55% owned two cars or more.

⁸ *Local Futures. Ward Profile: An Economic, Social and Environmental Summary Profile of Feniton and Buckerell, East Devon* (November 2013) reports that "The national average for the proportion of people who travel to work by car was 62.66% in 2011. By comparison the ward figure of 77.12% places the area in the top 40% of wards nationally. The proportion of residents who travel to work within Feniton and Buckerell ward by foot or bicycle was 7.86% in 2011. This is low, placing it in the bottom 40% of wards nationally. By comparison the national figure is 13.61%. The proportion of residents who travel to work within Feniton and Buckerell by motorcycle or scooter was 1.33% in 2011. This is very high, placing it in the top 20% of wards nationally. By comparison the national figure is 0.81% ... The national average for the proportion of people who travel to work by public transport was 16.4% in 2011. By comparison the ward figure of 5.3% places the area in the bottom 40% of wards nationally". (See http://www.eastdevon.gov.uk/feniton_and_buckerell_profile_nov13.pdf).

- i) Are of a design and construction which seeks to minimise adverse impact on existing flooding (including, but not limited to measures such as permeable driveways and dedicated parking spaces, use of soakaways and planting to minimise run-off);
- ii) Demonstrate that they have taken full account of and recognise the impact of flood risk, both in terms of fluvial and localised surface water flooding;
- iii) Minimise and do not exacerbate existing surface water flooding issues beyond the development site; and,
- iv) Ensure no adverse impact on existing flooding and satisfactorily mitigate / accommodate surface water run-off arising from the development through the use of Sustainable Drainage Systems (SuDS) where appropriate.

Feniton has been badly affected by flooding, most notably in 2008 and on numerous occasions since then. The first documented reference to flooding was in a parish council report of 1912, but probably the worst case of flooding was in 2008 when between 50 and 60 homes were flooded and elderly residents were forced to escape the rising water by climbing up into the attic of their bungalows. At the time of writing the plan, much of Feniton Parish (including all of “new” Feniton) is located within a Critical Drainage Area, meaning that in this area there is a need for surface water to be managed to a higher standard than normal to ensure that any new development will contribute to a reduction in flooding risks in line with the NPPF. These higher standards are determined by the Environment Agency. There is understandably deep concern about the impact of any new build, and reassurances sought that any new development will not exacerbate the current situation.



Flooding in Salisbury Avenue, new Feniton



Flooding at Patteson's Cross

The community at large, and residents of the estate in particular, were deeply upset that a developer failed to comply with conditions attached to their development, i.e. that attenuation tanks should be installed to receive surface water runoff before any of the houses were occupied. It took the combined weight of EDDC and adverse publicity from many news outlets, including a report on BBC TV's 'The One Show' (broadcast nationally in October 2014), to force the developer to comply. This is the context in which policy F1 has been written.

A £1.6m flood alleviation scheme is in progress. This multiagency-funded project is now at its midway point with two phases completed. Despite this, the questionnaire responses revealed flooding to remain a major concern of the majority of residents.



Phase 1 of the flood alleviation scheme

The NPPF provides clear guidance that local planning authorities should adopt proactive strategies to mitigate and adapt to climate change, taking full account of flood risk and water supply and

demand considerations. Similarly, policy EN22 of the Local Plan states that “Planning permission for new development will require that: (1) The surface water run-off implications of the proposal have been fully considered and found to be acceptable, including implications for coastal erosion. (2) Appropriate remedial measures are included as an integral part of the development, and there are clear arrangements in place for ongoing maintenance over the lifetime of the development. (3) Where remedial measures are required away from the application site, the developer is in a position to secure the implementation of such measures. (4) A Drainage Impact Assessment will be required for all new development with potentially significant surface run off implications. (5) Surface water in all major commercial developments or schemes for 10 homes or more (or any revised threshold set by Government) should be managed by sustainable drainage systems, unless demonstrated to be inappropriate”.

Proposals for new development in Feniton should also comply with Local Plan Policy EN14 Control of Pollution and Policy EN18 Maintenance of Water Quality and Quantity. Developers should also follow Devon County Council’s guidance on Sustainable Drainage Systems on its website: <https://new.devon.gov.uk/floodriskmanagement/sustainable-drainage/>

The community expressed its strong views that development should be restricted until solutions to reduce the risk of flooding are put in place and work adequately.

7.3 Scale of development

Objective 3. Promote only small developments within the BUAB, which allow a range of houses, broadening the choice from affordable housing to larger family homes, for local people.

Policy H1 Affordable housing shall be provided at a rate of at least 50% of total yield on sites, within the BUAB, subject to viability in accordance with current Government policy and Strategy 34 of the Local Plan. Outside the BUAB, on exception sites, at least 66% affordable housing should be provided, in accordance with Strategy 35.

Policy H2 Proposals for small-scale housing – i.e. comprising up to 10 dwellings – within the proposed BUAB will usually be supported subject to the following criteria:

- the proposals contribute towards affordable housing in accordance with Policy H1; and
- the affordable housing element of the development, comprised of social-rented dwellings, will be restricted to a person(s) who does not have access to general market housing and is in housing need and is a resident of the parishes of Feniton, Buckerell or Gittisham, or has a local connection with the Parishes because of family ties or a need to be near their workplace, according to Local Plan Strategy 35.

Proposals for more than 10 dwellings will be determined in accordance with the policies of the East Devon Local Plan.

Policy H3 Housing developments within Feniton’s BUAB will usually be supported where they include a range of house types, and where they have demonstrated through a Design and Access Statement or Planning Statement that they:

- i) are of high quality design, complementing the local vernacular, and will enhance visual amenity and minimise any adverse impacts on the built environment;
- ii) ensure that the size, height, density, scale and location of the development respects its setting and the character of the area;

- iii) ensure that materials and design of the development are sympathetic and complementary to its setting and the character of the area;
- iv) ensure that it is designed in such a way as to minimise its impact on the visual amenity of the surrounding landscape, on views of the proposed development and on the natural environment and mitigating any adverse impact using landscaping where necessary;
- v) maximise opportunities to provide habitats for wildlife and nesting birds;
- vi) maximise opportunities for 'greening' the built environment through natural planting of shrubbery and trees local to the biodiversity of the surrounding area;
- vii) preserve or enhance the heritage assets in the parish.

Policy H4 The Neighbourhood Plan will look favourably upon developments which recognise the considerable pressures faced by Feniton with respect to traffic congestion and on-road parking. Regard should be had for the parking spaces per dwelling standards set out in the Local Plan.

Congestion and problems associated with parking are long-standing issues in Feniton. For example, 76% of responses to the Neighbourhood Plan questionnaire expressed the view that parking was an issue in the village, while 78% supported the idea of a local traffic and parking plan. The Joint Inquiry of 2014 (APP/U1105/A/13 {2191905}{2197001}{2197002}{2200204} (Appendix 7) recognised that villagers were especially reliant upon the use of a private car "to reach the shops, services and facilities that cannot be found in Feniton. Many others would be reliant on the use of a car to commute to work" (#78). Any further housing development inevitably would increase such usage (#79), "an adverse environmental impact of some weight" (#104).⁹

The permitted development of 32 houses in Acland Park and 50 houses at the Wainhomes site unsurprisingly has led to further concern about the increased impact of traffic congestion and on-street parking.



Typical traffic congestion outside Feniton Primary School¹⁰



A farming community with narrow roads

Policy TC9 of the Local Plan (Parking Provision in New Development) requires as a guide "at least 1 car parking space ... for one bedroomed homes and 2 car parking spaces per home with two or more bedrooms". The strong view of the Parish Council and others was that these guidelines fell short of what was required for Feniton, and that for new homes with 3 or more bedrooms, 3 parking spaces would be more appropriate.

⁹ According to the 2011 census, the use of a car to travel to work from Feniton was 51% as opposed to 40% in East Devon, and 37% nationally.

¹⁰ Source: Travel Plan, Feniton Primary School, March 2012. Submitted as Appx 10 of Feniton Parish Council's Proof of Evidence at the Joint Inquiry of the same year.

7.4 Education, community facilities and leisure

Objective 4. Promote opportunities for young people to access **education, community facilities and leisure** within the village.

Policy C1 Existing community facilities – identified in Appendix 3 – will be protected, maintained and enhanced, with community support.

Policy C2 Developer contributions generated from Section 106 planning obligations or the Community Infrastructure Levy (CIL), where relevant and feasible, should contribute towards the local priority amenity and facility projects identified to East Devon District Council by Feniton Parish Council.

Policy C3 Development proposals that result in the loss of community facilities will only be supported where:

- i) it can be demonstrated:
 - a) through an up-to-date assessment of community need that the facilities are no longer needed; or
 - b) through an up-to-date assessment of the facility in its current form, or for a use of a similar nature, that the facility/use is no longer/cannot be made commercially viable. To be redeveloped for an alternative use, evidence will be required to show that the facility has been actively marketed for at least 12 months at a realistic and viable price for the existing or similar uses. Marketing should include an offer to the local community, at a realistic current use price, for its acquisition or operation;

or

- ii) it can be demonstrated, through an assessment of local community facilities, that suitable alternative provision (in terms of size, capacity and type) exists in Feniton to serve the community; and,
- iii) where there remains a need or demand, that suitable alternative replacement provision is included as part of the development proposal on or off-site within Feniton.

Development proposals for new and/or improved community facilities will be supported where:

- i) the proposal would not have significant harmful impact on the amenity of surrounding residents;
- ii) the proposal would not have significant harmful impacts on the surrounding local environment (with regard to biodiversity, wildlife habitat and landscape character);
- iii) the proposal would not have unacceptable impacts on the local road network (with regard to additional traffic volume / congestion, demand for parking, and pollution levels); and,
- iv) the proposal would adequately address surface water run-off issues (for example, through the use of Sustainable Drainage Systems (SuDS)).

7.5 Rural character and historic environment

Objective 5. Preserve and enhance the **rural character and historic environment** of the village and the wider landscape.

Policy E1 Feniton's unique topography, its status as a rural farming settlement of long standing, and a setting that conveys a sense of 'remoteness' (to quote the Planning Inspectorate's report following the Joint Inquiry) all contribute to making Feniton the unique place that it is.

Accordingly, development proposals which change the characteristics and essential qualities of the natural environment (including biodiversity, habitats, built heritage and landscape) will only be supported where they:

- i) demonstrate no adverse impact on those characteristics or that any adverse impacts are satisfactorily mitigated (for example, through appropriate landscaping, habitat creation or replacement and natural planting consistent with local biodiversity and species);
- ii) enhance the natural environment where there is the opportunity to do so.

Feniton's documented history as a rural, farming community stretches back at least a thousand years. Agriculture remains central to the community's identity and environment, and much of the surrounding land is designated as some of the highest quality. The village itself is on the eastern edge of the Devon Redlands National Character Area (NCA), an area characterised by the red soil that "dominates the landscape ... [and is] ... visually evident in the ... hamlets and villages that are scattered across the area".¹¹ As the NCA notes, agriculture has "left a dense pattern of deep and narrow lanes imprinted in the landscape ... [and] ... the gently rolling hills that feature across the NCA support a network of hedgerows enclosing relatively small fields ... Hedgerow trees and small copses often give a wooded appearance to the hills". Feniton and its environs are described perfectly in this regard.

Specifically, Feniton is characterised by a mixture of narrow country lanes, with high hedgerows and Devon banks, with long panoramic views to the hills beyond. The value of such vistas was recognised by



View of new Feniton



Tractor passing new Feniton pub

¹¹ Natural England, March 2013: <http://publications.naturalengland.org.uk/publication/6150022>



Ploughing competition in Feniton¹³

the Planning Inspectorate in its appeal decisions of April 2014, when several large-scale housing development proposals were rejected.¹² For example the Inspectorate commented on “the existing sweep of uninterrupted views from Ottery Road up toward the top of Long Park Hill”, and that proposed development would result “in the suburbanisation of what is currently a rural and open part of the landscape” (#42).

7.6 Local Green Space

Objective 6. Promote the provision of **Local Green Spaces** for use by the village.

A list of Feniton’s important Local Green Spaces appears as Appendix 2 to this document.

Policy O1 Development proposals on or likely to impact the Local Green Space sites (see Appendix 2) will only be supported where they:

- i) maintain or enhance the existing use and amenity value of the site;
- ii) enhance the access to and use of the site where used for recreational purposes; and,
- iii) have no adverse impact on the landscape, habitats or biodiversity of the site or (where unavoidable) satisfactorily mitigate such impact

Policy O2 New development will include or contribute to the provision of recreational open space in line with standards set out by East Devon District Council’s Local Plan, and in keeping with paragraph 58 of the NPPF.

The village has a scarcity of appropriate green space within the BUAB and what currently exists requires to be secured, maintained and enhanced wherever possible. Enjoyment of Local Green Space is nationally recognised as having health benefits for all age groups, and development must respect the need to provide open space and links to the established footpath network around the village.

7.7 Local medical facilities

Objective 7. Support the provision of local medical facilities.

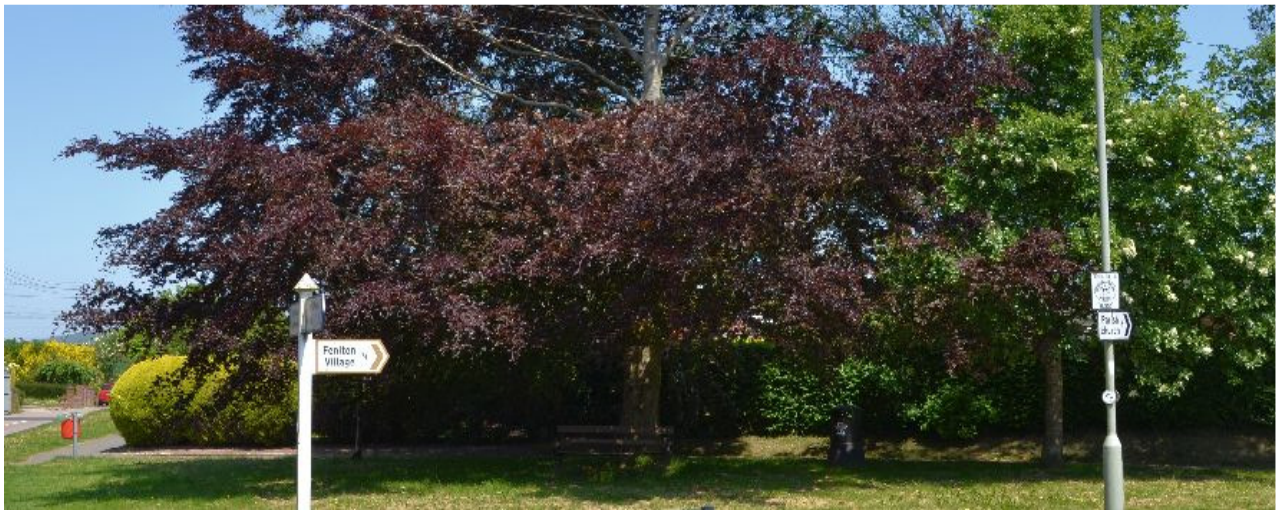
Policy M1 Proposals for the development of local medical facilities will be supported where they:

- i) are located close to existing community facilities such as the school or shops to help ensure good accessibility to residents without their own private transport (given the inadequate public transport facilities); and,
- ii) provide the appropriate medical facilities for the community’s needs.

¹² <http://planningapps.eastdevon.gov.uk/Planning/lg/GFPlanningDocuments.page>

¹³ Sidmouth Junction and District Ploughing Association annual competition, 2012. Photo courtesy © Paul Burton.

Under Community Facilities, para 16.35 of the Local Plan states that “community facilities are at the heart of every town and village in the District and provide for the health and wellbeing, social, educational, spiritual, recreational, leisure and cultural needs of the community. They vary enormously but most offer meeting places hosting numerous social, cultural and other activities and space for sport and recreation, usually run and financed by the local community. Many settlements also offer a school and in some cases a library and medical facilities which tend to be funded through the County Council education and health authorities. Many residents use these facilities on a daily basis and for some, particularly the elderly, young and those without transport in the rural areas, they are an essential lifeline. Parish Plans and other community-produced documents consistently identify the retention of existing community facilities and the provision of additional ones as key issues, highlighting just how crucial they are to residents' lives”. The need for a medical presence in the village has been highlighted in the Neighbourhood Plan survey and the Parish Council will endeavour to support the services of NHS providers within the locality to offer a meaningful service to parishioners on a regular basis. It is recognised that funding availability in the current financial environment within the NHS is a substantial impediment to achieving this goal.



Village green in new Feniton

Appendix 1: Membership of the Feniton Neighbourhood Plan Steering Group

Membership of the Steering Group has included since its first meeting in October 2014 the following:

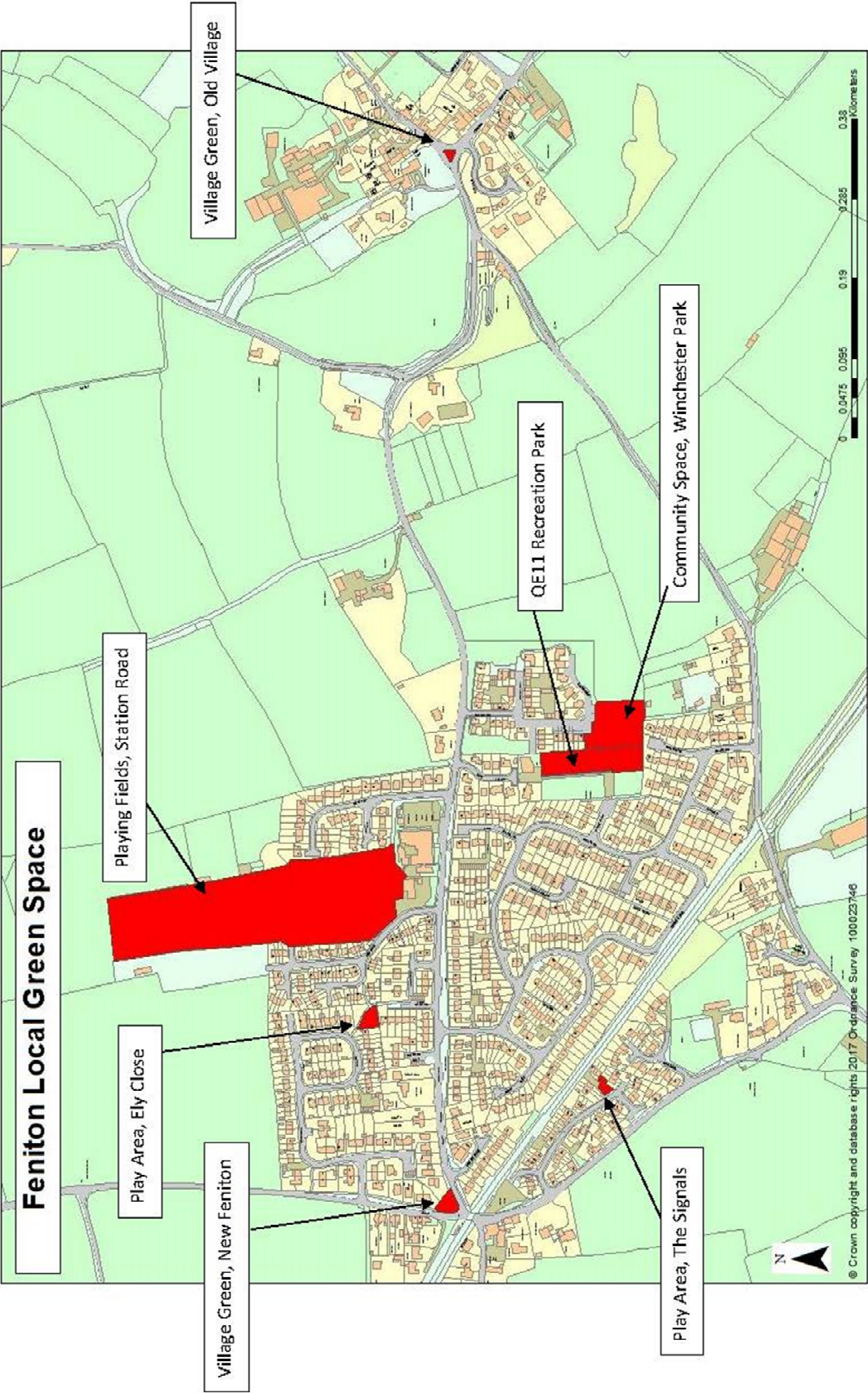
Malcolm Armstrong
Cllr Susie Bond (District Councillor, Feniton and Buckerell ward; Councillor, Feniton Parish Council)
Cllr Jayne Blackmore (Councillor, Feniton Parish Council)
Lorna Davis
Lynne Deam
Cllr Christine Gibbins (Councillor, Feniton Parish Council)
Trevor Ives (former Councillor, Feniton Parish Council)
Maureen Jones
Val Jones
Bill Knollman
Maureen Mills
Kathy Morris-Coole
Martin Morris-Coole
Cllr Chris Poole (Councillor, Feniton Parish Council)
George Roulson
Janet Seal
Cllr Martyn Smith (Chair, and Chair Feniton Parish Council)
Nick Spence (former Councillor, Feniton Parish Council)
Jenny Wilson
Cllr Dr John Withrington (Councillor, Feniton Parish Council)

In the course of its meetings, the Steering Group has also hosted a number of guest speakers to assist with creation of the Neighbourhood Plan, including Tim Spurway (EDDC), Martin Parkes (Devon Communities Together) and Stuart Todd (Todd Associates).

Appendix 2: List of Local Green Spaces

Feniton has limited Local Green Space (see map on page 23) and these are greatly valued by residents of the village. The list below includes the Bowling Club in the old village which is a potential Local Green Space.

Village Green, old Feniton	This historic green has been the centre of the original village for centuries and provides a focal point within the old part of the village.
Playing Fields, Station Road	The playing fields have been an integral part of the village for more than 70 years providing facilities for football, cricket, and many other activities. The playing fields act as a 'green lung' at the centre of a densely packed area of housing.
Play Area, Ely Close	This area has been in use from the 1970s and provides an important play area for smaller children.
Community Open Space, Winchester Park	This new area will become an integral extension to the QEII recreation park, open to the whole of the village. It is planted as an informal wildflower meadow and provides the backdrop to the QEII recreation park and allotments.
QEII Recreation Park	Created in the early 1970s this is the main recreation area for the younger generation. It provides play areas for all ages and pitches for ball games and other activities. The Parish Council will be embarking on a programme of refurbishment in consultation with all groups in the village.
Play Area, The Signals	Although small, this is an important area to allow play for the younger generation in this part of the village.
Village Green, new Feniton	This green provides a welcome area of open space close to the railway station and is planted with mature trees with a bench beneath.
Potential future Local Green Space at the Bowling Club, old Feniton	The Bowling Club was established in 1971, and is situated in old Feniton. Close to the Village Hall, it provides excellent facilities with access to an adjoining car park. The designation of this site will be considered further at the 5-year review of Feniton's Neighbourhood Plan.



Appendix 3: List of community facilities

The following is a simple list of community facilities, broken down into various categories.

Category	Feniton (old)	Feniton (new)	Public ownership	Private ownership
Education				
Feniton Primary School		x	x	
Sport & Leisure				
Sports & Social Club		x		x
Football & cricket clubs		x		x
Bowling Club	x			x
Pub (The Nog Inn)		x		x
Allotments		x	x	
Youth Centre		x		x
Community land*		x		x
Play Areas				
QEII		x	x	
Ely Close		x	x	
The Signals		x	x	
School playground		x	x	
Retail				
Hairdressers	x	x		x
SPAR convenience store		x		x
Fast food take-away		x		x
Health				
Dentist (private)		x		x
Other				
Village hall, annex, car park	x			x
Hosted p/t Post Office**	x		x	
Mobile library***		x		x

* Land allocated under Section 106 to Winchester Park site.

** Operates for 4 hours per week. Permanent Post Office closed early 2017.

*** Operates for 75 minutes per month.

Education

- Feniton Primary school

Sport and Leisure

- Sports and Social Club
- Football and cricket clubs
- Bowling club (old Feniton)
- Pub (The Nog Inn)
- Allotments
- Community land allocated under Section 106 to Winchester Park site
- Youth Centre

Health

- Dentist (private)

Play areas

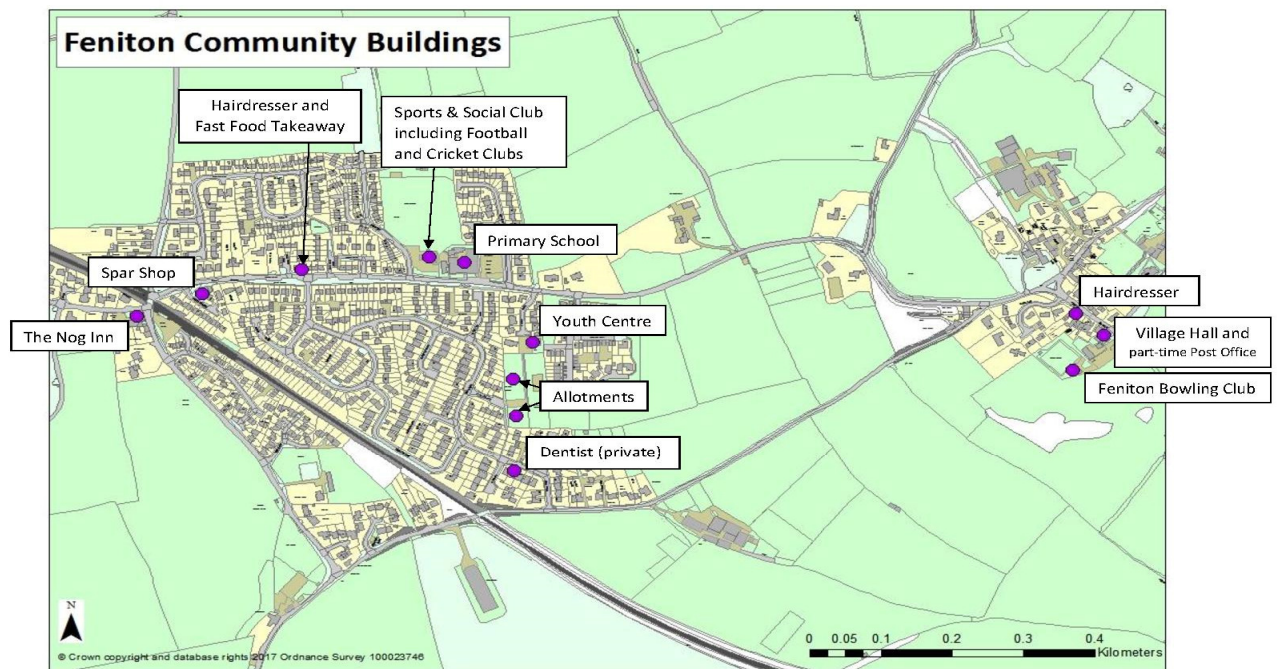
- QEII play area
- Ely Close play area
- Signals play area
- School playground

Retail

- Hairdressers (new and old Feniton)
- SPAR convenience store
- Fast food takeaway shop

Other

- Village hall and Annex, with car park (old Feniton)
- Hosted Post Office of 4 hours p.w. (permanent Post Office in old Feniton closed early 2017)
- Mobile library (75 minutes per month)



Appendix 4: List of Public Rights of Way

A copy of the Parish map for Feniton showing Public Rights of Way and County Roads is available from <http://map.devon.gov.uk/dccviewer/MyLocalPaths/>.

- Footpath No 1 (Ottery footpath): Only the start of this path is in Feniton parish. It immediately goes into Ottery parish and heads south to the old A30.
- Footpath No 1 (Feniton footpath): Continues from footpath No 2, splits - one part heading towards the old village, one part heading towards the railway line, becoming footpath No 10 and coming out on to the lane from Fenny Bridges.
- Footpath No 2: Runs along the boundary of Feniton and Ottery for part of the way and then joins footpath No 6. Footpath No 2 continues after the new A30 (it was cut by the new road) and comes out on the corner of the village road at Fenny Bridges.
- Footpath No 3: Starts on the Sherwood Road and heads north across to Colestocks.
- Footpath No 4: Starts in Curscombe Lane and skirts Feniton Court, becoming Footpath No 16 at the Buckerell boundary.
- Footpath No 5: Runs from Curscombe towards Cheriton, it becomes a track/bridleway, then a designated bridleway (No 19) on the boundary of Payhembury/Feniton, then a track/bridleway.
- Footpath No 7: Runs from the Curscombe/Buckerell Lane to the boundary with Buckerell and then becomes footpath No 18 (Buckerell footpath).
- Footpath No 8: Runs from Sherwood Road south to the Talaton Road, coming out at Colesworthy.
- Footpath No 10: Continues from footpath No 1 (short section) and runs parallel to the new A30 to join Feniton village road down the steps by the new road.
- Footpath No 85 (Ottery footpath): Starts at Colesworthy (Feniton parish) and immediately heads south into Ottery parish (Escot).
- Footpath No 8 (Payhembury footpath), starts in Feniton parish (off lane from Lower Cheriton).

There is also an unmetalled road between Curscombe and Hembury Fort.

Appendix 5: Timeline of Neighbourhood Plan

A vital aspect of Feniton's Neighbourhood Plan has been public consultation to ensure that views of residents have been canvassed during the preparation of the Plan. A Consultation Statement has been provided which outlines the extent and nature of public engagement. The views and information received over the entire extent of the formulation of the Neighbourhood Plan have been the bedrock of this plan.

The following table is a summary of the key events which have been undertaken by the Neighbourhood Plan Steering Group. As outlined in the Consultation Statement, these public events are only part of the process. Feniton Parish Council's website has been kept up to date; the parish magazine has had monthly reports on progress, and District Councillor Susie Bond's blog has items outlining public engagement to date. The table below also looks forward to the eventual adoption of the Neighbourhood Plan.

October 2014	First public consultation organised to outline the processes involved in writing a Neighbourhood Plan. Attended by consultant Stuart Todd
November 2014	Stall at St Andrew's Fayre in Feniton Primary School
January 2015	All-day scoping event in Feniton village hall
March 2015	Scoping exercise in Feniton Primary School
July 2015	Stand at Feniton Fun Day (all-day village event)
November 2015	Distribution of questionnaire to every adult in the NP area
July 2016	Stand at Feniton Fun Day (all-day village event)
Nov 2016 to June 2017	Informal consultation with EDDC followed by amendments to ensure conformity with East Devon Local Plan and NPPF
July 2017	Stand at Feniton Fun Day (all-day village event)
July 2017	Draft plan sent out for 6-week Reg. 14 pre-submission consultation
October 2017	EDDC publish plan for 6-week period of further consultation
November 2017	Appointment of independent examiner arranged by EDDC
December 2017	Examination of plan
December 2017	Report of independent examiner
January 2018	Publication of any amendments required to Feniton NP
February 2018	Publication of Final Plan, submission to EDDC followed by local referendum
May 2018	Final Plan 'made' and adopted by EDDC as the Local Planning Authority. Feniton Neighbourhood Plan policies are applied by Feniton Parish Council and EDDC



Appendix 6: Map showing Feniton's proposed Built-Up Area Boundary

Feniton falls within Strategy 27 of EDDCs Local Plan and the BUABs of the Strategy 27 communities are currently the subject of a Villages DPD to be examined by a Planning Inspector in November 2017. The proposed BUAB for Feniton is depicted below.



Appendix 7

Appeal decision

**Joint inquiry appeal decision (2014):
(APP/U1105/A/13 {2191905}{2197001}{2197002}{2200204})**

Appeal Decisions

Inquiry held on 7-10 and 14-17 January 2014 and 4-5 February 2014

Site visit made on 22 January 2014

by Jessica Graham BA(Hons) PgDipL

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 7 April 2014

The Feniton Park Ltd Appeal Ref: APP/U1105/A/13/2191905

Land to the north of Acland Park, Feniton, Devon

- 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 Feniton Park Ltd against the decision of East Devon District Council.
 - The application Ref 11/1021/MFUL, dated 9 May 2011, was refused by notice dated 27 November 2012.
 - The development proposed is demolition of the existing buildings and redevelopment of the site to provide residential development of 32 houses.
-

The SLP 120-home Appeal Ref: APP/U1105/A/13/2197001

Land to the west of Ottery Road, Feniton, Devon

- 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 Strategic Land Partnerships against the decision of East Devon District Council.
 - The application Ref 12/2648/MOUT, dated 3 December 2012, was refused by notice dated 25 April 2013.
 - The development proposed is up to 120 residential dwellings (C3) including associated employment floorspace (A1/A3/B1) and community floorspace (D1/D2) along with associated public open space, play space, allotments and infrastructure.
-

The SLP 59-home Appeal Ref: APP/U1105/A/13/2197002

Land to the west of Ottery Road, Feniton, Devon

- 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 Strategic Land Partnerships against the decision of East Devon District Council.
 - The application Ref 12/2649/MOUT, dated 3 December 2012, was refused by notice dated 18 April 2013.
 - The development proposed is up to 59 residential dwellings (C3) including associated employment floorspace (A1/A3/B1) and community floorspace (D1/D2) along with associated public open space, play space, allotments and infrastructure.
-

The Wainhomes Appeal

Ref: APP/U1105/A/13/2200204

Land to the south of Station Road, Feniton, Devon

- 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 Wainhomes (South West) Holdings Ltd against the decision of East Devon District Council.
 - The application Ref 13/0591/MFUL, dated 8 March 2013, was refused by notice dated 20 June 2013.
 - The development proposed is the erection of 83 residential dwellings and their associated roads, sewers, landscaping, open space, parking and garages.
-

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Decisions

1. The Feniton Park Ltd appeal is allowed and planning permission is granted for demolition of the existing buildings and redevelopment of the site to provide 32 houses on land to the north of Acland Park, Feniton, Devon in accordance with the terms of the application, Ref 11/1021/MFUL, dated 9 May 2011, subject to the 12 conditions set out in the schedule attached as Appendix C to this decision letter.
2. The SLP 120-home appeal is dismissed.
3. The SLP 59-home appeal is dismissed.
4. The Wainhomes appeal is dismissed.

Procedural matters

5. The planning applications which became the subject of the SLP 120-home appeal and the SLP 59-home appeal were both made in outline, in each case with details of access provided, but details of appearance, landscaping, layout and scale reserved for future consideration. I have determined these two appeals on that basis.
6. On the opening day of the Inquiry, a number of Feniton residents expressed concern about the relocation of the Inquiry venue from Feniton Bowling Club to the Flybe Training Academy at Exeter Airport. I explained that as I understood it, the change of venue was not the result of any undue pressure from the appellants, but rather an informed (and, with the benefit of hindsight, entirely appropriate) decision by the Council that a larger venue was needed to accommodate the five main parties and the very large number of interested people that wished to attend. In order to ensure that any residents unable to travel to the new venue had a fair opportunity to address the inquiry, I held an evening session at Feniton Primary School on Wednesday 15 January. I would like to record here my gratitude to the residents who provided a sound-system, collected names at the door, and generally helped me to ensure that the evening session was as inclusive as possible.
7. All three appellants provided S.106 deeds (SLP submitted four: two for each appeal scheme). I consider the content and operation of these deeds below, in the context of assessing the benefits and adverse impacts of each appeal.
8. Towards the end of the Inquiry, applications for awards of costs against the Council were made by Feniton Park Ltd and Strategic Land Partnerships. These applications are the subject of two separate decision letters of even date.
9. After the inquiry closed the government published, on 6 March 2014, new national Planning Guidance (PG) which revoked and replaced much existing guidance. All of the main parties were given the opportunity to comment on the implications of this for their respective cases, and I have had regard to the comments received, as well as the content of the PG, in determining these appeals.
10. Numbers in square brackets are references to paragraphs within this decision letter.

Main issues

11. The three main issues, common to all four appeals, are
 - (a) the district's housing supply position, and its policy implications;
 - (b) the effect the proposed development would have on the character and appearance of the area; and
 - (c) whether Feniton is an appropriate location for the proposed development.
12. The sequence of these issues is not intended to reflect their relative importance, but rather to provide a logical structure to my decision. I start by considering the District's housing supply situation and the implications this has for the application of planning policy, since that determines the decision-making process I must follow. I then consider the site-specific impacts that each proposal would have on the character and appearance of the area, before turning to matters such as Feniton's flooding problems and existing infrastructure, which are relevant to each of the proposals now before me. I will then be in a position to weigh all of the various considerations in the planning balance, and reach a conclusion as to which, if any, of these development proposals should be permitted.

The district's housing supply position, and its policy implications

13. Policy S3 of the Adopted East Devon Local Plan 2006 ("the Local Plan") lists the villages of East Devon, including Feniton, around which a Built-up Area Boundary (BuAB) is defined. It states that: *These villages are identified as offering a range of services and facilities and through the definition of Built-up Area Boundaries they are regarded as appropriate to accommodate a limited scale of future development.* Policy S5 of the Local Plan states that: *The countryside is defined as all those parts of the plan area outside the Built-up Area Boundaries for towns and villages.* It then goes on to explain that development in the countryside will only be permitted where it is in accordance with a specific Local Plan policy that explicitly permits such development, and where it would not harm the distinctive landscape, amenity and environmental qualities of the area within which it is located.
14. Every single one of the appeal sites currently before me lies outside the Feniton BuAB, on land that is consequently defined as "countryside". As a result, all of the four appeal proposals would fundamentally conflict with adopted Development Plan policy aimed at restricting residential development in the countryside. Conflict with Development Plan policy is not, however, the end of the matter. Planning law¹ requires that applications for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise. One such material consideration is the guidance set out in the National Planning Policy Framework (NPPF), published by the government in March 2012.

Housing supply

15. Paragraph 49 of the NPPF states that if a local planning authority cannot demonstrate a five-year supply of deliverable housing sites, relevant policies for the supply of housing should not be considered up-to-date.

¹ S.38(6) of the PCPA 2004 and S.70(2) of the TCPA 1990

16. At the start of the inquiry the Council, Feniton Parish Council, and all three appellants produced a joint written statement setting out their agreement that the deliverable housing-site supply for the district is in the range of 2.2 to 4.3 years, and that this constitutes “a significant shortfall” (ID 4).
17. This agreement was challenged by the Campaign to Protect Rural England (CPRE). The carefully considered and clearly argued grounds on which the CPRE disputed the housing supply calculations of various parties are not without merit. It is right that the housing requirement identified in the Secretary of State’s Proposed Changes to the (now revoked) Regional Strategy for the South West (RSSW) was based on the evidence of household projections that are no longer the most up-to-date available, and that there is evidence of a lower rate of population growth in East Devon than those projections predicted. Further, if it can be demonstrated that the shortfall against delivery of housing in an earlier plan period is merely a theoretical shortfall against a calculated need that never in fact materialised, then it is clearly arguable that no real backlog, such as would need to be added to the overall housing requirement for the next plan period, exists.
18. However, these arguments need to be made at the Examination in Public (EiP) into the Council’s emerging new Local Plan (eLP), where they can be considered alongside those of other interested parties who take an opposing view to CPRE, contending that the Council’s assessment of housing requirement is too low rather than too high. The EiP is the proper forum in which to examine those arguments, in the light of all the available evidence. It is not for me, in the context of determining whether specific development proposals should be permitted, to usurp that function of the EiP by forming a view as to whether the housing requirement figure set out in the eLP will meet the objectively assessed housing need for the district: I have neither the remit nor the evidence. I do however need to determine whether the Council is able currently to demonstrate a five year supply of housing land, as required by paragraph 49 of the NPPF.
19. For that purpose, I agree with the Council, and the other four main parties, that the most appropriate housing requirement figure is that set out in the Secretary of State’s Proposed Changes to the RSSW. I appreciate that it is now somewhat dated, but the crucial point is that unlike any of the more recent alternative assessments of housing need, it was informed by evidence that has been independently examined, and robustly tested at an EiP. On that basis, the district’s current supply of deliverable housing sites falls short of five years. By operation of paragraph 49 of the NPPF, then, Local Plan policies that are “relevant policies for the supply of housing” should not be considered up to date.

Relevant policies for the supply of housing

20. There is some disagreement as to which of the adopted Local Plan policies are relevant for the supply of housing. The Council contends that these are only such policies as relate solely to housing, and that the second part of Policy S5 is a “countryside protection” policy.
21. In support of its argument on this point, the Council drew my attention to two earlier appeals. In the Alsager decision² the Inspector concluded that a policy

² Appeal ref: APP/R0660/A/13/2195201 (CD 7.7)

aimed at protecting the countryside by preventing development outside Settlement Zone Lines (equivalent to BuABs) was “not sufficiently directly related to housing land supply that it can be regarded as time expired”. However, the Inspector was there considering whether the policy should be treated as time-expired on a different basis: that is, that the SZLs had been drawn specifically to reflect the identified requirement, and housing allocations, for a period that had ended two years previously. That is not the same point as whether a policy is not up-to-date if the Council cannot demonstrate a 5-year housing supply.

22. In the Irchester decision³, the Inspector held that while policies aimed primarily at the protection of the countryside may also have an effect on housing supply, that was not their “main purpose”, and as such it did not seem to him that these were policies of the kind that paragraph 49 says should be regarded as out of date. The wording of the policies there under consideration is not provided, and whether or not a specific policy can reasonably be described as “relevant... for the supply of housing” is ultimately a matter for the decision-maker. But I would hesitate to accept the proposition that a policy could not be relevant to the supply of housing simply because housing is not its main purpose. It was open to the government to say, in the NPPF, that the provisions of paragraph 49 apply to policies “specifically related to” or “solely concerned with” the supply of housing: instead, the term chosen was “relevant... for”.
23. The Council also drew my attention to the judgment of the High Court in *William Davis v Secretary of State*⁴, which suggests, at paragraph 47, that Inspectors who had applied paragraph 49 of the NPPF to “policies which did not relate to housing” did so in error. That is a proposition I accept: it is unlikely that a policy which has no relation at all to housing could be relevant to housing supply. However, I do not agree with the Council’s interpretation of paragraph 47 of this judgment as finding that “policies that did not relate solely to housing were not supply of housing policies” (ID 68, 2.6). Rather, the finding in that paragraph was that the particular policy under consideration was not covered by paragraph 49 because it “does not relate to the supply of housing” (emphasis in original). This confirms my view that the assessment to be made is whether a particular policy is related to the supply of housing, and not whether housing is its sole or main purpose.
24. I consider that Policies S3 and S5 of the Local Plan, which seek to direct development (including residential development) toward locations within the BuABs, and to restrict the amount that takes place outside the BuABs, are clearly of relevance for the supply of housing. It follows that in the absence of a demonstrable five-year supply of deliverable housing sites, these policies should not be considered up-to-date.

The implications for the decision-making process

25. I do not criticise the Council for seeking to argue otherwise, because I think that stems from its understandable concern that the countryside should be protected from inappropriate development. In my experience, many local planning authorities fear that if policies which would otherwise restrict

³ Appeal ref: APP/H2835/A/12/2182431 (Mr Blackmore’s Appendix 7)

⁴ *William Davis Limited, Jelson Limited v Secretary of State for Communities and Local Governments, North West Leicestershire District Council* [2013] EWHC 3058 (Admin) (ID 68)

house-building in the countryside are to be considered not up-to-date, then proposals for such development would become very difficult indeed for them to resist. But the NPPF should not, it seems to me, be interpreted as permitting a housing development free-for-all. Rather, paragraph 49 aims to ensure that in situations where (as here) the existing Local Plan policies have failed to secure a sufficient supply of deliverable housing sites, the “presumption in favour of sustainable development” is duly applied.

26. The mechanism for applying that presumption is set out in paragraph 14 of the NPPF. It explains that where relevant policies are out of date, then (unless material considerations indicate otherwise) permission should be granted, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole, or specific policies in the Framework indicate development should be restricted. This clearly does not equate to a blanket approval for residential development in locations that would otherwise have conflicted with Local Plan policies. If the adverse impacts of the proposal (such as harm to the intrinsic character and beauty of the countryside) significantly and demonstrably outweigh the benefits, then planning permission should still be refused.
27. The Council sought to persuade me that this approach would be incorrect, since “paragraph 14 NPPF (sic) only applies to a scheme which has been found to be sustainable development”⁵. With the greatest of respect, I do not think that can be right. Paragraph 14 does not specify certain criteria against which each scheme must first be assessed, in order to determine that it would constitute sustainable development, before then going on to apply a presumption in that development’s favour. Rather, what paragraph 14 does is to set out how the “presumption in favour of sustainable development” (described as “a golden thread running through both plan-making and decision-taking”) is to be operated, by prescribing the specific approaches that must be taken when plan-making and when decision-taking.
28. The second limb of paragraph 14 concerning “decision-taking” is drafted so as to be applicable to the determination of all development proposals. Approving those that accord with the development plan (unless material considerations indicate otherwise) equates to applying the presumption, without the need for any prior decision as to whether the proposal would be “sustainable development”. Similarly, where the development plan is absent, silent or relevant policies are out of date, no separate decision as to sustainability is specified: rather, the decision-taker is enjoined to grant permission unless either the adverse impacts would significantly and demonstrably outweigh the benefits, or specific policies in the NPPF indicate the development should be restricted.
29. If the approach to decision-taking set out in paragraph 14 of the NPPF is taken, then it must follow that the presumption in favour of sustainable development will be correctly applied. This is the decision-making process I have previously recommended to the Secretary of State, who is responsible for the NPPF. He agreed with, and subsequently applied, my advice.⁶ It is the decision-making process I shall follow here.

⁵ Paragraph 37 of the High Court judgment in *William Davis v Secretary of State* (supra)

⁶ Appeal Ref: APP/P1133/A/12/2188938 IR 12.36-12.37; DL 16 (Appendix 7 to Mr Harris’ proof of evidence)

The weight that attaches to the housing shortfall

30. That there is an agreed significant shortfall in the district's five-year supply of deliverable housing sites is a factor which weighs in favour of permitting the current proposals for additional housing. There are, however, various matters said by the Council to reduce the weight this factor should carry in the overall planning balance. One such is the Council's preference for taking a disaggregated approach to assessing housing supply, distinguishing between the "West End" of the district, where the new settlement of Cranbrook is being built, and the "Rest of East Devon". Considered separately, the housing supply figure for the West End has consistently been below 5 years, whereas supply in the Rest of East Devon has consistently exceeded 5 years.
31. A disaggregated approach to the district's housing requirement may well be a sensible means of planning for the future geographic distribution of housing. But in circumstances where (as here) there are currently insufficient housing sites to meet district-wide needs, paragraph 49 of the NPPF provides that relevant policies for the supply of housing should not be considered up-to-date. In such circumstances there is a pressing need to address the housing shortfall, and no policy basis in the NPPF for applying an in-principle geographical restriction on where that may take place.
32. The Council also contends that the lack of a five-year housing supply is likely to be short lived, since it will be resolved through the imminent EiP process and adoption of the eLP. However, as discussed above [17], there are conflicting views about the district's housing requirement as well as its housing supply, and until the EiP process has been completed there is no guarantee that the eLP will be found sound and proceed to adoption. In any event, unless there is certainty (and there is not) that the EiP will find the district's housing shortfall to be significantly smaller than is currently agreed, awaiting its outcome is not a reason to postpone development that would assist in remedying that shortfall. The Council has made it very clear that it does not seek to argue that granting planning permission for the current proposals would be premature, or in any way prejudice the outcome of the eLP.
33. Taking all of this into account, it remains the case that each of the proposed developments would help to address what is agreed to be a significant shortfall in the district's housing supply. In view of the government's drive "to boost significantly the supply of housing", encapsulated at paragraph 47 of the NPPF, that is a benefit to which I must attach considerable weight.

The effect on the character and appearance of the area

The Feniton Park Ltd Appeal

34. This appeal site covers an area of around 0.6ha, on the north-eastern side of Feniton, immediately adjoining the existing residential area of Acland Park. Last used for agricultural purposes, it has been derelict since the 1970s. There is a concrete yard, with various sheds and barns in a state of some dilapidation. Agricultural land adjoins the western edge of the site, and playing fields that are part of Feniton Football Club lie on its eastern side. Three oaks and an ash on the western boundary are protected by Tree Preservation Orders.

35. The appeal scheme proposes the demolition of the existing structures, and re-development of the site to provide 32 houses. A mixture of two-storey accommodation, including terraced housing, semi-detached pairs, a detached house and some flats over garages, would be grouped around a central street which would form a continuation of Acland Park road. The simple roof forms, rendered walls and timber detailing would accord with the modest style and proportions of the existing nearby dwellings, and provision is made within the site for the planting of new trees and shrubs, as well as for vehicular parking and turning space.
36. The appeal site does not occupy a prominent position within the landscape. It can be seen from the recreation ground, and its gated entrance and dilapidated buildings currently form a rather unattractive endpoint to views along Acland Park. Otherwise, views into the site are limited to those available from high land to the east and north east, and glimpses over boundary hedgerows along the rural lanes to the east. In all of these, the appeal site is seen against a backdrop of rising land, and the adjoining residential development of the built-up part of the village. In this context, I agree with the Council that replacing the existing dilapidated structures with the proposed housing development would visually improve the appeal site.
37. Wainhomes provided an alternative suggested layout, based around an access road which zig-zagged from side to side. Given the narrowness of the site, which has been likened to a finger of land extending into the open countryside, I am not convinced that this would necessarily have been a better approach than that which is currently proposed. In any event, I am satisfied that subject to conditions ensuring the retention of the protected trees and the provision of further details concerning satisfactory replacement boundary planting, the appeal scheme would have a beneficial rather than adverse impact on the character and appearance of the area.

The SLP 59-home Appeal and the SLP 120-home Appeal

38. Feniton sits in a natural bowl between higher ground to the west and east, and shallower rising slopes extending north and south from the village. The higher ground to the west is a rounded hill with a woodland copse at its summit, and is known as (among other names) Long Park Hill. The two SLP schemes constitute alternative proposals for residential development of the same site, which extends to some 5.4ha, and is part of a field known locally as Camp Field, which lies on the lower slopes of Long Park Hill. The eastern boundary of the appeal site adjoins Ottery Road, and the residential development on the opposite side of Ottery Road currently forms the western edge of the built-up part of Feniton.
39. Both the 120-home and 59-home schemes sought only outline planning permission, such that details of layout and landscaping (as well as scale and appearance) would remain to be determined at a later stage. Nevertheless, the "Illustrative Masterplan" that accompanied each application showed that in both schemes, the buildings would be located toward the northern end of the appeal site, and the southern end would provide areas of public open space, incorporating allotments, play areas and community orchards. New planting would extend along the western boundary of the appeal site, screening the buildings from the adjacent countryside and providing opportunities to create a circular pedestrian route along the edge of the settlement. A lower-lying area

of land along the south-eastern boundary would be used to accommodate a flood attenuation scheme.

40. In 2008 the Council published the *East Devon and Blackdown Hills AONB and East Devon District Landscape Character Assessment & Management Guidelines* ("the LCA Assessment"), which identifies the character of the landscape in this part of Feniton as of type 4D: "Valley floors – lowland plains". I saw at my site visit that the area around the appeal site displays many of the features the Guidelines identify as "key characteristics": there is gently-sloping farmland, an isolated farm, a village (Feniton itself) that has been significantly enlarged and modified by 20th Century expansion, and long views over low hedges. I also saw that Long Park Hill is a distinctive feature of the local landscape, and forms part of the setting of the village.
41. The appeal site lies on the lower slopes of Long Park Hill, and the area proposed for development is wholly contained below the 80m contour line, so that it does not rise up above the natural bowl within which most of the existing development at Feniton already sits. It is not visible from the heart of the village, or in any long views other than the southern approach from Public Footpath FP1. It is however a prominent and locally valued element of public views from Ottery Road, since it forms part of the open, undeveloped hillside which currently affords uninterrupted views up toward the wooded hilltop of Long Park Hill. The LCA Assessment urges the protection and enhancement of views to wooded skylines on hills within and around the area.
42. The construction of either 59 or 120 houses on the appeal site, together with such employment buildings (if any) as may be built on the area of serviced employment land provided as part of each scheme, would obscure the existing sweep of uninterrupted views from Ottery Road up toward the top of Long Park Hill. From the junction of Ottery Road and Green Lane, all the way along Ottery Road to the northern boundary of the appeal site, views of the open hillslope to the west would be replaced by views of residential development. I appreciate that in these views, and also in views from FP1, a clear gap of open land would be retained between the furthest extent of the development and the uppermost reaches of Long Park Hill, but the construction of a considerable quantity of built development on its lower slopes would result in the suburbanisation of what is currently a rural and open part of the landscape. In my judgment this would fundamentally and harmfully alter the distinctive character of this part of Feniton.
43. While the proposed planting would help to screen views of the new development, I am not convinced that this would provide any meaningful mitigation for the loss of the existing views over open countryside. Similarly, while it has been pointed out that the edge of the settlement is currently formed by the gable-ends and close-boarded fencing on the eastern side of Ottery Road, I am not persuaded that development on the opposite side of the road, however carefully designed, could create an improved settlement edge and "arrival experience" that would necessarily be better than, or an adequate substitute for, the existing views of the open slopes of Long Park Hill.
44. The proposed development would open up new views of Long Park Hill, and long views of the landscape to the south, from the proposed public areas such as the community orchard, informal recreation space and footpath along the western boundary of the site. But again, this would not really compensate for

the loss of views from Ottery road: while pedestrian footways are not provided on many sections of that road it is nevertheless one of the main routes in to the village, and there is evidence that it is used by recreational walkers as well as cyclists, horse-riders and vehicular traffic. It seems to me doubtful that any more than a small proportion of this traffic would divert in to the proposed development in order to benefit from new views.

45. In summary, I find that both of the appeal schemes would significantly and harmfully alter the character of this part of Feniton, and have an adverse visual impact on public views. They would therefore conflict with the objectives of Policy D1 of the Local Plan, which seeks to ensure that development does not adversely affect important landscape characteristics and prominent topographical features. The extent of the built-up development in the 59-home scheme would occupy a smaller proportion of the appeal site than would the built-up area of the 120-home scheme, and so the associated harm, in the terms that I have identified above, would be less. Nevertheless, I consider the harm that would be caused to the character and appearance of the area, by either of the two schemes, to be an adverse impact of great weight.

The Wainhomes Appeal

46. This appeal site is on the eastern edge of Feniton, and so lies on the opposite slope of the landscape 'bowl' to the SLP appeal site, in the area of open countryside between this part of the settlement and 'old' Feniton to the east.
47. The appeal site covers some 3.43 ha extending from Station Road, which adjoins its northern boundary, to Green Lane, which runs along its southern boundary. It is immediately adjacent to an area of land on which permission was granted in 2012 for 50 dwellings ("the Wainhomes Phase 1 scheme")⁷, construction of which is under way. The development now proposed would connect to and integrate with that permitted development, linking to its estate roads and utilising the same vehicular access point from Station Road. The appeal scheme proposes the construction of 83 dwellings ranging from 1 to 2 storeys high, mainly grouped in clusters around looped streets and cul-de-sacs. Their form and design would reflect that of the dwellings in the Phase 1 development.
48. This appeal site is also part of the area classified by the LCA Assessment as character type 4D: "Valley floors – lowland plains", and this part of Feniton displays many of the features identified as "key characteristics" of that classification: there is mixed farmland, a level to gently sloping landform, and "a surprising feeling of remoteness" on sections of Green Lane between the older and newer parts of Feniton. As the Council pointed out, the landscape further to the east is classified as character type 3B: "Valley slopes – lower rolling farmed and settled slopes", and the area around the appeal site also displays some of the key characteristics of this classification. Indeed, I saw at my site visit that both Green Lane and Station Road have more in common with the "winding, often sunken lanes" associated with LCA type 3B than the "wide low roadside hedges and banks" associated with LCA type 4D. I saw little evidence of the "long views over low hedges" associated with LCA type 4D: the long views available from Green Lane and Station Road are largely restricted to gated gaps in their boundary hedges.

⁷ Appeal Ref APP/U1105/A/12/2172708 (CD 7.1)

49. Wainhomes contends that in views westward from these gateways, the proposed development would be seen against the backdrop of the existing buildings of Feniton. But since the topography of the area is such that the majority of Feniton is contained within the natural bowl formed by the landscape, the existing buildings are largely hidden from view. The development permitted under the Wainhomes Phase 1 scheme will be more readily apparent, when completed, because it is set on rising ground. The ground level of the appeal site is higher again, and so there would be only limited views of the rest of the village to provide visual context for the new dwellings. Construction of the proposed dwellings would effectively advance the edge of this part of the settlement eastward, reducing the extent of open countryside that currently separates it from the older part of the settlement, and reducing the extent to which users of Green Lane may experience a sense of remoteness.
50. On Public Footpath FP8, from the top of Long Park Hill, there are panoramic views eastwards toward the appeal site. Again, the topography of the area is such that in these views, a large proportion of the built-up part of Feniton is hidden. Some existing properties are however visible, and in future these will include the completed dwellings of the Wainhomes Phase 1 scheme. From this position, residential development would provide the foreground to the new housing proposed in this appeal, and a clear gap of open land would be retained between the furthest extent of the new development and the wooded ridge that lies between the newer and older parts of Feniton. Nevertheless, the presence of the new dwellings would clearly extend the built-up part of the settlement into what was formerly open countryside, to the detriment of its rural character.
51. The Wainhomes Phase 1 scheme makes provision for a "Green Link". This is a public pedestrian route running north from Green Lane alongside the existing edge of the settlement, such that its users would have views eastward over the open countryside beyond, before walking through the Phase 1 development to reach Station Road. The appeal proposal would preclude delivery of the Green Link on its existing route, instead making alternative provision for pedestrian access between Green Lane and Station Road. Walkers could either follow a circuitous footpath running inside the perimeter boundary of the proposed development, or, after passing through the pedestrian access from Green Lane, follow a more direct route along the internal vehicular access roads. I agree with the Council that both of these options would be considerably less attractive than the permitted Green Link route, since users would effectively be walking through a housing estate for the whole length of the path, rather than just its northern half.
52. The southern part of the proposed development would involve the subdivision of a field which has remained intact since before the 1888-1890 tithe map. However, the Wainhomes Phase 1 scheme has already involved the loss of a corner of the adjoining field to the north, leaving it an irregular shape that is uncharacteristic of the locality. Thus the disruption caused by the bisection of the southern field would be offset to some degree by the restoration of rectilinear proportions to the northern field, such that taken as a whole, I consider the appeal proposal could not fairly be said to cause significant damage to the characteristic field pattern of the area.

53. In summary, I find that the appeal scheme would harmfully alter the character of this part of Feniton by replacing open countryside with built development. It would encroach into the existing gap between the two parts of the settlement and bring built-up development closer to Green Lane, thereby reducing the sense of remoteness experienced by users of this highway. It would also have an adverse visual impact in public views from Green Lane, Station Road, FP 8, the "Green Link" that is to be provided between Green lane and Station Road, and from the allotments and recreation ground on the eastern edge of Feniton. I conclude that it would conflict with the objectives of Policy D1 of the Local Plan, which seeks to ensure that development does not adversely affect important landscape characteristics.
54. Views of this appeal site from public vantage points are more limited than is the case for the SLP appeal site, and it does not play as prominent a role in providing part of the setting to the village. I consider the harm that its proposed development would cause to the character and appearance of the area would be less than that caused by either of the SLP proposals, but would still constitute an adverse impact of considerable weight.

Whether Feniton is an appropriate location for the proposed development

Flooding

55. Given the misery and devastation that flooding can cause, I am not surprised that local residents submitted a great deal of written, oral and photographic evidence to help me understand the problems that have been, and continue to be, experienced in Feniton. It is clear that Feniton's flooding problems pre-date the extreme weather conditions experienced this winter, and are caused by inadequacies in the existing drainage network, which has insufficient capacity to cope with large volumes of surface water run-off from the slopes that surround the village. A significant number of homes have flooded as a result, many on more than one occasion, and the volume of water ponding at Patteson's Cross can prevent access to and from the A30. An additional problem is that in combined sewers, the foul water system can be overwhelmed by excessive surface water flow and this has lead to contaminated waste water backing up into residents' houses, and bursting out of manhole covers in the road. I do not underestimate the distress this causes.
56. In order to address these problems, the Council is working on a Flood Defence Scheme for Feniton. This will involve the installation of a considerable length of 1050mm diameter pipe, to channel surface water along a new path under the railway, connecting into the system just above Metcombe cottage. A new ditch will be formed to bypass Metcombe Cottage, and additional work carried out downstream to reduce further risk of flooding at Patteson's Cross.
57. The evidence of the Council is that the engineers commissioned to design the Flood Defence Scheme have costed it at £1.6 million, and that funding of £1.5 million has already been secured. I am told that the Council's solicitor has written to the relevant land owners with a view to conducting the necessary surveys this year, and while the results of those surveys will largely dictate the delivery timetable, it is hoped that the Scheme will be installed in 2015/2016.
58. SLP pointed out that there has already been some slippage in the timetable, and that the need to deal with emergency flooding situations elsewhere could require the diversion of some of the existing funding. While that may be so, it

seems to me that on the basis of the evidence provided to date, there is no convincing reason to doubt that the much-needed Flood Defence Scheme will be delivered in the next few years.

59. I can well understand why many people take the view that no further development should take place in Feniton until the Flood Defence Scheme has been installed. However this is not (currently, at least) the approach taken by national or local planning policy: the presence of existing flooding problems does not act as an outright bar to any further development. Rather, the extent to which each development proposal would add to, or ameliorate, the existing flooding problems at Feniton is one of the many considerations that must be weighed in the overall planning balance.

Highways

60. The development proposal which is now the subject of the Wainhomes Appeal was the last of the four appeal schemes to be determined by the Council. One of the reasons given by the Council for refusing to grant planning permission for this proposal was that "insufficient information has been submitted to evidence that the cumulative impacts arising from this and other potential developments around the village would not result in a severe impact on the highway network in terms of highway safety and local capacity". Wainhomes subsequently commissioned a Highway Engineer to produce a "Cumulative Impacts Report" providing such additional information as the Highway Authority considered necessary. Having assessed the report in consultation with the Highway Authority, the Council gave notice that it no longer wished to pursue this reason for refusal.
61. Feniton Parish Council retains a number of concerns about the coverage, and methodology, of the Cumulative Impacts Report. These aspects of the report were, however, agreed with the professional officers of the Highway Authority. The report focuses on the capacity of Ottery Road to cope with the additional traffic, because that was the approach requested by the Highway Authority. It uses the methodology set out in TA 46/97 "Traffic Flow Ranges for Use in the Assessment of New Rural Roads" because, while Ottery Road is clearly not a new rural road, the Highway Authority accepted that TA 46/97 was the only recognised tool that could be used to assess the potential impacts. No more appropriate methodology has been put forward, and no alternative professional quantification of the cumulative impact has been provided.
62. In the course of the inquiry, Network Rail wrote to the Planning Inspectorate⁸ requesting that if the appeals were allowed, financial contributions be required from the appellants to mitigate the increased traffic and usage of the level crossing on Ottery Road. It subsequently wrote again⁹ to advise that having reviewed the evidence, it believed that the impact of the proposed developments on the level crossing would be negligible, and consequently withdrew its request for financial contributions, and its objections to all of the proposed schemes.
63. Feniton Parish Council retains concerns about the effect the proposed development would have on the level crossing, based on its view that the Transport Statements provided by the appellants were inaccurate. However,

⁸ By e-mail dated 16 January 2014 (ID 44)

⁹ By e-mails dated 24 & 27 January 2014 (ID 45 and ID 46)

the Highway Authority is satisfied with the quality of the Transport Statements, and Network Rail wrote in response to the Parish Council's concerns¹⁰: "After reviewing the information and assessing it alongside Network Rail's own observations of the level crossing it was considered [by the local Level Crossing Manager] that there was no evidence that the developments would result in a significant impact on the level crossing that would necessitate an objection to the developments or a reasonable request of financial contributions to upgrade works to the crossing." It was open to Network Rail, had it shared the Parish Council's concerns, to uphold its objections pending the provision of more information, but it saw no need to do so. There is, then, no substantive evidential support for an argument that the proposed developments would have any significant adverse impact on the safety or functionality of the level crossing.

64. Constructing any, or all, of the four proposed housing schemes would increase the number of cars using the roads in and around Feniton, and I can understand why existing residents would prefer that not to happen. However, the evidence before me was judged sufficient by the professional officers of the Highway Authority, and demonstrates that even if all four of the schemes were permitted, the ensuing increase in both vehicular and pedestrian movements would not give rise to an unacceptable risk of conflict between road users, or exceed the capacity of the road network. Paragraph 32 of the NPPF makes it clear that planning permission should only be refused on transport grounds where the residual cumulative impacts of development are "severe". That is not, in my opinion, a description that could reasonably be applied to the individual or cumulative impacts of the current proposals.

Local services and facilities

65. As was recorded by the Inspector who determined the Wainhomes Phase 1 appeal in 2012, Feniton has a corner shop, takeaway and hairdressers, a community hall, public house and primary school. There is also a church and post office in 'old' Feniton, although this older part of the settlement is some 1.2km from the newer centre that has grown up around the train station, and the roads that link the two are narrow, unlit and have no footways.
66. The nearest secondary school is The Kings School in Ottery St Mary, some 3 miles away. Both this school and Feniton Primary are currently at, or very close to, capacity. That being the case, Devon County Council sought contributions from each of the development proposals, to secure the provision of the additional educational facilities needed to accommodate the predicted increase in pupil numbers likely to arise from the increase in housing. The evidence of the County Council demonstrates that it has calculated the financial contributions (partially offset, in the case of the two SLP proposals, by a transfer of land) necessary to mitigate the increased strain that each development proposal would otherwise place on local education provision. Each of the appellants has executed a S.106 deed securing payment of the contribution requested by the County Council in the event that their respective proposals were allowed. The fact that the local schools are at or near capacity is not, then, a consideration which weighs against the current appeal schemes.
67. The nearest health services are the Coleridge Medical Centre in Ottery St Mary, the Ottery St Mary hospital, and the community hospital and doctors surgeries

¹⁰ By e-mail attached to a letter from Mr Neil Parish MP dated 4 February 2014 (ID 59)

in Honiton, some 5 miles away. A number of objectors to the appeal proposals expressed concern that the Coleridge Medical Centre is already at or near capacity, and so would struggle to cope with additional demands for its services likely to arise from occupiers of the proposed new housing. If it were the case that the Medical Centre has insufficient capacity to cope with the likely increase in demand, it would be open to the relevant authority to seek a contribution from the development proposals (in the same way that a contribution has been sought for the provision of additional educational facilities, as discussed above). No such contribution has been requested, or identified, by the Council or the County Council. Nevertheless, it remains the case that residents of Feniton must travel out of the village in order to access health care.

68. There are very limited opportunities for employment in Feniton itself. Feniton Parish Council provided a Ward Profile for Feniton and Buckerell (Local Futures, 2013) which identifies that while the percentage of the working-age population in employment is very high, there is very little employment locally. The Ward Profile also assessed the proportion of users who have access to various services within a reasonable time, and concluded that while the score for Primary School access is above the national median, the scores for access to GPs, secondary schools, Further Education and hospitals are all well below the national median.

Accessibility by "sustainable" modes of transport

69. The NPPF advises that transport policies have an important role to play in facilitating sustainable development, and contributing to wider sustainability and health objectives. Paragraph 29 states that the transport system needs to be balanced in favour of sustainable transport modes, "giving people a real choice about how they travel." However, it goes on to recognise that opportunities to maximise sustainable transport solutions will vary from urban to rural areas.
70. The inquiry heard a great deal about train services to and from Feniton.
71. Perhaps the first point to note is that, questions of frequency aside, the fact that Feniton has any kind of train service at all gives it a considerable advantage, in terms of choice as to sustainable modes of transport, over many other villages in Devon.
72. The current timetable shows that Pinhoe (the station which serves the Exeter Business Park) is 12 minutes from Feniton by train, Exeter Central Station 17 minutes, and Exeter St Davids (for intercity services) 21 minutes. Trains from Feniton to these stops leave at 06:12, 07:18, 07:59 and 09:21 during the morning peak from Monday to Friday, and on the return journey during the evening peak, depart from Exeter St Davids at 16:24, 17:25, 17:46 and 18:25 from Monday to Friday.
73. This is an improvement upon the train service that operated when the earlier Wainhomes Phase 1 appeal was decided in 2012, at which date the Inspector noted "a two hourly train service to Exeter and London with an additional service in rush hour". He also noted that if the 17:54 train home from the Exeter Business Park were missed, there was not another stopping at Feniton until 23:06. That is no longer the case: there is still a 17:56 and 23:06 service from the Exeter Business Park station to Feniton, but in between there are also stopping services leaving at 18:37 and 21:37. I note that census figures

suggest the train services are not particularly well-used by residents of Feniton, but these pre-date the improvements to the timetable so cannot be relied upon to reflect the up-to-date position.

74. The railway station itself occupies a fairly central location in Feniton, such that it lies within reasonable walking distance of all of the appeal sites currently under consideration. Concerns were raised about the distance rail commuters would be required to walk at the other end of their journey, and I understand that the quality of the walk between Pinhoe station and Exeter Business Park is not good. The stations at Exeter Central and Exeter St Davids are however well-served by buses, which would provide the opportunity for onward travel by public transport.
75. There are conflicting views as to the likely future of train services from Feniton. Some fear that as the new settlement at Cranbrook grows, residents and businesses will generate pressure to increase stops there at the expense of other stations on the same line. Others, drawing on the County Council's *Exeter-Honiton-Axminster Corridor: Infrastructure Report for East Devon Local Plan* (July 2013) for support, point out that the current strategy is to create a new loop in order to improve the existing rail services, as the most practical way of addressing increasing traffic problems in Exeter. I note that funding for the proposed improvement is not certain, but it seems to me that the current available evidence provides no substantive reason to fear a reduction in the existing rail service to and from Feniton; rather, it provides cautious hope for improvement.
76. Feniton is not well served by buses. There are five services each way per day to Sidmouth via Ottery St Mary and one service each way per day to Honiton, with none on Sundays.
77. While walking and cycling for leisure are popular activities, the roads connecting Feniton to neighbouring settlements with other services and facilities are narrow country lanes, with no street lighting or pedestrian footways. This renders commuting out of the village on foot or by bicycle an unattractive, and for most unviable, option.
78. Taking all of this into account, I consider that although Feniton has a reasonably good rail service for a rural village, opportunities for residents to use other modes of sustainable transport are limited. Feniton lacks many of the services and facilities found in larger settlements, which means that residents have to travel out of the village to find them; to Ottery St Mary, for example, if they need access to medical care. Thus, while future occupiers of the new dwellings who kept traditional office hours in Exeter, Honiton or Axminster may well be able to use the train to commute to work, it is likely that they would still be reliant on the use of a private car to reach the shops, services and facilities that cannot be found in Feniton. Many others would also be reliant on the use of a car to commute to work: the evidence provided by Wainhomes suggests there is potential for approximately 30% of journeys to work from the dwellings in that particular scheme to be made using rail from Feniton station.
79. The future occupiers of the currently proposed housing would be likely, then, to be dependent at least to some extent on the use of a car, so the effect of permitting any of the proposals would be to increase the number of trips made to and from Feniton by private vehicle.

80. It is worth noting that this is also likely to be the case, albeit to varying extent, in most of the district's rural settlements; the NPPF explicitly recognises that development in rural areas is unlikely to offer the same opportunities for promoting sustainable modes of transport as is development in urban areas. That is not, of course, reason in itself to focus all new development on the urban areas, because the "sustainability" of putting development in a particular location is about much more than just the accessibility of that location.

The question of "sustainable development"

81. Paragraph 7 of the NPPF explains that there are three dimensions to sustainable development: economic, social and environmental. Paragraph 8 goes on to advise that in order to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system.
82. In terms of the economic dimension, the government has made clear its view that house building plays an important role in promoting economic growth. The NPPF does not, however, identify a straightforward correlation between the construction of houses and ensuing economic growth. Rather, in describing the "economic role" that is to be played by the planning system, paragraph 7 identifies the need to identify and coordinate development requirements, including the provision of infrastructure.
83. Proposals for housing development on "windfall" sites, such as those currently before me, can be required, through the mechanism of planning obligations, to contribute toward improvements in local infrastructure only insofar as the improvements are needed to mitigate the effects of each specific proposal. By contrast, residential development that is plan-led can be brought forward in concert with the necessary supporting infrastructure. It seems to me that while the former type of residential development will clearly have some economic benefit, including the creation of jobs in the construction industry, the latter type better accords with the paragraph 7 requirement that the planning system ensure sufficient land of the right type is available in the right places, and at the right time, to support growth.
84. The appellants rightly point out that the future occupiers of the proposed new houses would provide more custom for the existing shops and services in Feniton, thereby contributing to the local economy. There is also an argument that while there are currently only very limited employment opportunities in Feniton itself, there is reasonably good access, by train as well as by private car, to employment opportunities in the nearby city of Exeter. The provision of housing, within relatively easy reach, would help to support the important economic role played by Exeter.
85. The benefits to Exeter's economy have, however, to be considered in the context of the implications for Feniton itself: as paragraph 9 of the NPPF makes clear, pursuing sustainable development involves seeking positive improvements in people's quality of life. There is a real danger, as the current residents recognise, that constructing large amounts of new housing on the premise that its occupiers would commute out to Exeter risks turning Feniton into a dormitory town.
86. A further consideration, in relation to this social dimension of sustainable development, is the importance placed by the NPPF on widening the choice of

high quality homes, and ensuring that sufficient housing (including affordable housing) is provided to meet the needs of present and future generations. As discussed above, the proposed development would be of clear benefit in these terms given the current significant shortfall in the district's housing supply. But again, the NPPF does not identify a straightforward correlation between the construction of houses and ensuing social benefit. Paragraphs 54 and 55 explain that housing development should reflect local needs, and be located where it will enhance or maintain the vitality of rural communities.

87. Substantially increasing the number of residences in a settlement without proportionate increases in the provision of local shops, infrastructure, employment opportunities and other local services risks eroding community cohesion. This type of impact is always hard to quantify, given the difficulties of obtaining tangible evidence. Prior to the approval in 2012 of the Wainhomes Phase 1 scheme, there were 674 dwellings in Feniton; that development will add a further 50, and even the smallest of the current proposals would add 32 more, resulting in an overall increase of 12.2%. This would constitute a sizeable expansion, and I accept the Parish Council's argument that it would take the existing community some time to adapt, and may have adverse consequences for the social and cultural wellbeing of existing residents. There is evidence that many of them chose to live in Feniton specifically because it is a small, quiet, rural settlement.
88. This is not a consideration which could on its own outweigh the pressing need to address the current housing shortfall. But I take the point that Feniton, like other communities, expects (quite rightly) that decisions about its capacity to accommodate more housing should be taken through the Local Plan process, which enables detailed assessment and comparison with the capacity of the district's other settlements. In this context, a considerable quantity of new housing being allowed on appeal in advance of that process, shortly after an earlier appeal resulted in permission for 50 new houses, could lead to hostility and resentment being directed towards the occupiers of the new housing. I appreciate that not all existing residents would feel that way, and that Feniton has in the past proved itself able to adapt admirably to new development. Nevertheless, I consider the potential adverse impact on the existing community to be a consideration which must be weighed in the overall balance.
89. As to the environmental dimension of sustainable development, the likely increase in vehicular traffic would be at odds with the aim of minimising pollution. Building houses on undeveloped parts of the countryside would also conflict with the core planning principles, set out in paragraph 17 of the NPPF, of conserving and enhancing the natural environment and encouraging the effective use of land by reusing land that has been previously developed. In this context, I note SLP's point that much of East Devon's land is heavily constrained by designations, such as the "Green Wedge" policy at issue in a recent appeal in Seaton¹¹; I am told that 66% falls within one or other of the two Areas of Outstanding Natural Beauty in the district. But I have not been provided with evidence to indicate that meeting the district's housing requirement will inevitably necessitate the residential development of all, or even most, non-designated areas of countryside. In the absence of such evidence, I see no reason on this basis to reduce the weight that attaches to the loss of such areas to residential development.

¹¹ Appeal Ref: APP/U1105/A/13/2202124 (ID 54)

90. Paragraph 7 also identifies the planning system's role in helping to use natural resources prudently. Each of the appeal sites is designated Grade 2 agricultural land, which is one of the categories of best and most versatile land. Paragraph 112 of the NPPF advises that the economic and other benefits of such land should be taken into account, and the loss of good quality agricultural land is an adverse impact to be weighed in the overall planning balance. Again, in the absence of evidence that meeting the district's housing need will inevitably necessitate the residential development of agricultural land of equivalent quality, I see no reason to reduce the weight that attaches to the loss of such land.
91. A number of objectors to the proposed development expressed concern that the loss of this Grade 2 agricultural land would also have adverse implications for the nation's food security. This was a matter that was addressed by the Secretary of State in the context of an appeal in Bloxham¹². He confirmed the Inspector's interpretation that "Government policy is strongly directed towards an increase in housing designed to stimulate the economy. Nowhere is there guidance that requires the retention of agricultural land per se for food security. This is not therefore a matter that can weigh against the proposed development." The same reasoning applies to the current proposals.
92. It is correct to note that the Inspector who determined the Wainhomes Phase 1 appeal found Feniton to be "a sustainable location" but it would be incorrect, in my view, to equate this with a finding that any and all further residential development at Feniton must necessarily be sustainable too. The question of whether or not a particular proposal constitutes "sustainable development" is not simply a matter of location; it involves, as evidenced by the length and complexity of this decision letter, a wide variety of other considerations.
93. The Council recognises Feniton as "appropriate to accommodate a limited scale of future development" (in the terms of LP Policy S3) and as one of a number of settlements offering "a reasonable range of accessible services and facilities to meet some or many of the everyday needs of local residents" (in the terms of eLP Strategy 27). In simple terms, it is a consistent theme of the existing and emerging Development Plan for the area that while Feniton has some capacity to accommodate additional housing, that capacity is not limitless.
94. Emerging Strategy 27, in its current form, seeks to impose a specific numerical limit on the amount of additional development that would be acceptable in the district's "small towns and larger villages", including Feniton. However, that limit and the method of its calculation are evidently the subject of dispute, and this emerging policy as yet carries very little weight. As with the question of the district's objectively assessed housing need – which will be crucial to establishing the quantity of new housing that needs to be provided across the district – the EiP is the proper forum in which to examine the arguments as to where the necessary housing should be located. An informed decision will need to be made in the light of the various Strategic Housing Market Assessments, the Council's *Small Towns and Villages Sustainability Assessment 2013*, Mr Seaton's alternative sustainability appraisal, and a large volume of other evidence. It is not for me, in the context of determining the current appeal proposals, to usurp that function of the EiP by expressing a view as to whether

¹² Appeal reference APP/C3105/A/12/2189191, para 129 [CD 7.17]

Feniton is a more or a less “sustainable” location for housing than other settlements within East Devon.

95. I am, however, required to determine whether the current appeals should succeed, in advance of the conclusion of the new Local Plan’s adoption process, and in the context of an existing Local Plan that has not secured a sufficient supply of housing to meet the district’s five-year housing requirement. As discussed at some length above [13 – 29], the NPPF sets out the approach to be taken in such situations, in terms of applying the “presumption in favour of sustainable development” as described at paragraph 14. That approach is to weigh the adverse impacts and the benefits of the proposed development in the balance, and to grant planning permission unless the adverse impacts significantly and demonstrably outweigh the benefits.

The benefits and adverse impacts of the individual proposals

The Feniton Park Ltd Appeal

96. I have concluded that in the context of the acknowledged significant shortfall in the district’s housing supply, the fact that the proposed development would help to remedy that shortfall carries considerable weight in its favour [33]. An additional benefit, of some weight, would be the visual improvement resulting from the re-development of the appeal site [37]. I have also concluded, above, that the economic benefits of constructing additional housing at Feniton would not be unalloyed [82 – 84]; nevertheless they carry a small amount of weight in favour of the proposed 32 new dwellings.
97. Around 75% of the appeal site is currently impermeable. Its drainage is via a private surface water sewer network that connects directly to Feniton’s existing combined sewer system. The Drainage Strategy for the proposed development would involve disconnecting the surface water from that combined system, and since the existing surface water flow is calculated as greater than the foul water flow that would be generated by the proposed dwellings, this would result in an overall reduction in flows discharging into the combined sewer system. While the potential reduction in pressure on the combined system has not been quantified as a benefit of such substance as to carry significant weight in favour of the proposed development, it is nevertheless clear that there would be no adverse impact, in drainage and flood risk terms, such as would weigh against it.
98. While the site is technically classified as “best and most versatile” agricultural land, I share the Council’s view that the current state of the land, the extent of the existing structures and hard-surfacing and the fact that it has not been in meaningful agricultural use for several decades, make it unlikely that it would ever now be returned to such a use. I do not, therefore, consider the loss of good-quality agricultural land to be a consideration that weighs against permitting the proposed development. However, notwithstanding the presence of existing structures on the appeal site, it does not fall within the NPPF’s definition of “previously developed land”, and so cannot benefit from the favourable weight that might otherwise attach to proposals that make efficient use of land through re-developing brownfield sites.
99. Local Plan Policy H4 explains that the Council will seek to negotiate with developers to provide a minimum of 40% affordable housing. The S.106 Undertaking executed by the appellant (ID 66) secures the provision of four of

the 32 proposed houses as “affordable dwellings”, which equates to only 12.5%. The Council contends that Feniton’s need has already been provided for, at least until 2017, through provision of the affordable homes required as part of the Wainhomes Phase 1 scheme, but this is based on the findings of a 2012 “Feniton Local Housing Needs Report”, which have not yet been tested at EiP. In any event, the Council acknowledges that East Devon currently has an “overwhelming” district-wide need for affordable housing. That being the case, the four new affordable dwellings that would be provided on the appeal site is a benefit that carries a small amount of weight in favour of permitting the appeal; not as much weight as would have been the case had 40% of the proposed dwellings been secured as affordable.

100. The S.106 Undertaking provided by the appellant contains various other planning obligations. A planning obligation may only constitute a reason for granting planning permission if it is necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related to it in scale and kind. One of the obligations contained in the Undertaking is to pay a £216,800 “Education Contribution”. As discussed above [66], this is the sum calculated by the County Council as necessary to enable the provision of additional education facilities to accommodate the children likely to be living in the proposed 32 new houses, and so renders the impact of the development neutral in these terms.
101. Similarly, the provision for payment of an £85,000 “Flood Relief Contribution” in the S.106 Undertaking is rendered necessary by the importance of ensuring that Feniton’s existing flooding problems are not made worse by the construction of further housing, and so constitutes mitigation for, rather than a benefit of, the proposed development.
102. The S.106 Undertaking also includes obligations to make a contribution toward an “all-weather multi-purpose sports facility”, to relocate the existing cricket pitch further north within the playing fields, and to reposition a power cable to facilitate the expansion of adjacent sports facilities. There is evidence that the village already has an adequate supply of sports facilities. It is, however, material to note that while the current state of the appeal site limits its potential usefulness for recreational purposes, it is nevertheless part of an area identified under Local Plan Policies RE1 and RE4 as a Recreation Area / Allotment site. I therefore accept the Council’s argument that the contributions toward facilitating other recreational opportunities are necessary to compensate for its loss to housing, in order to prevent any conflict with the aims of Policies RE1 and RE4.
103. For the reasons discussed above [87 – 88], I consider that permitting the proposed 32 new dwellings would have an adverse impact, of some weight, on the vitality and social inclusivity of the existing community at Feniton.
104. The only (still extant) Development Plan policy with which the Council’s refusal notice identified conflict was Local Plan policy S5. For the reasons set out above [19 – 24] I have concluded that the provisions of the NPPF mean that policy S5 must be considered “not up-to-date”, and so the fact that the development would take place outside the settlement boundary is not, in and of itself, a reason to refuse permission. As to the location of the development in the countryside adjoining the settlement boundary, I have already noted above that improvements in the character and appearance of the area, as a

result of the proposed re-development of the appeal site, carries some weight in its favour. However, I have also found that the new housing would be likely to increase the number of journeys made by private car [79], and this is an adverse environmental impact of some weight.

105. Taking all of this into account, I conclude that considered on its own merits, the benefits of permitting this particular proposal would on balance clearly outweigh the adverse impacts.

The SLP 120-home Appeal

106. As with the Feniton Park Limited appeal, the fact that the proposed development would help to remedy the district's existing significant shortfall in housing carries considerable weight in its favour. Further, in the context of East Devon's "overwhelming" district-wide need for affordable housing, the fact that 40% of the new dwellings would be provided as affordable homes, in accordance with Local Plan Policy H4, carries some weight in favour of the proposed development. I have found that the economic benefits of constructing additional housing at Feniton would not be unalloyed, but consider that they nevertheless carry a small amount of weight in favour of the proposed 120 new dwellings.
107. However, unlike the Feniton Park Limited appeal, I have found that the harm this proposal would cause to the character and appearance of the area constitutes an adverse impact of great weight [45]. While this harm was not offset by the proposed provision of publicly accessible facilities such as allotments, a community orchard and managed parkland, it is fair to note that those facilities would bring community and social benefits which should be afforded a small amount of weight in the overall balance.
108. A further consideration is the impact that the proposed development would have on the Grade II Listed Building known as Sweethams, and on the historic linear boundary separating the parishes of Feniton and Ottery St Mary. Sweethams stands in a fairly prominent position on the road leading from the A30 into Feniton, close to the southern boundary of the appeal site. Originally a 17th Century cottage, it has been the subject of a number of alterations and more modern additions. Its significance derives mainly from the evidential value contained within its original fabric, and from its historic value as a rural dwelling of some antiquity. The building also retains its close association with the road network between Feniton and Ottery St Mary, and this aspect of its setting makes a positive contribution to its significance, as does the surrounding farmland, being part of this rural dwelling's original context.
109. Having special regard to the desirability of preserving the Listed Building and its setting¹³, I note that neither the physical fabric of Sweethams nor its relationship with the road network would be affected by the proposed development. However, the construction of housing and a landscaped park on a previously undeveloped field, which to date has formed part of the historic agricultural context for the dwelling, would have an adverse impact on this aspect of its setting and thereby the significance of the Listed Building.
110. The ancient boundary in question dates back at least as far as the 11th Century. Historically, it marked the division between Hayridge Hundred and

¹³ A statutory requirement imposed by S.66 of the Planning (Listed Buildings and Conservation Areas) Act 1990

Ottery Hundred, was the parish boundary between Feniton and Ottery St Mary, and was also a manorial boundary. Its significance derives from its association with the historic division, ownership and administration of the land, but the extent to which the boundary today remains a discernible feature within the landscape is limited. A hedge remains along the line of the boundary to the west of the appeal site, although there is little visible distinction between this and other field-boundary hedges. There is no visible above-ground remnant of the boundary on the appeal site itself, or amid the existing development of Feniton on the eastern side of the appeal site.

111. I appreciate that the illustrative layouts of the two SLP proposals make some acknowledgement of the route the ancient boundary followed: the 120-home proposal by planting trees along a path following its route, and the 59-home proposal by restricting the built-up part of the development to its northern side. Nevertheless, it seems to me that the proposed construction of housing within the setting of this ancient landscape feature will have the adverse impact of further obscuring the already limited opportunity for present-day observers to appreciate its historic significance.
112. As to the overall impact of the proposed development, I share the view reached by the respective Heritage Experts instructed by SLP and Wainhomes, who both concluded that in the terms of paragraph 134 of the NPPF, the harm to the significance of Sweethams and the historic boundary would, in each case, be "less than substantial". That harm nevertheless remains an adverse impact of some weight, to be included in the overall balance.
113. The proposed development would result in the permanent loss of approximately 5 ha of Grade 2 agricultural land, currently farmed under a tenancy agreement. I consider this to be an adverse impact of some weight.
114. The Ecology Expert instructed by Wainhomes expressed concern about the effect that the proposed development could potentially have upon protected species: specifically, bats and dormice. I note that no detailed surveys for bats were undertaken. The evidence of the Ecology Expert instructed by SLP is that this was because the only trees in which bats might roost are located on the eastern margin of the site, where it was just possible though unlikely that there may be summer roosts, but where any such roosts would be unaffected by the proposed development. Wainhomes dispute this, on the grounds that the likely increase in ambient light levels could potentially cause bats to abandon such roosts. However, the existing ambient light levels are likely to be fairly high, due to the close proximity of street lamps and residential development on the opposite side of the road to the trees. Since it would be possible to impose a condition requiring prior approval of a lighting strategy for the proposed development, I am satisfied that a significant increase in ambient light levels, such as might cause the abandonment of roosts, could be avoided.
115. Other concerns about bats related to the potential for roosts in the modern buildings along Ottery Road, and the farmstead at Long Park, rather than on the appeal site itself. As to the possible use of the appeal site for foraging, full details of the layout and landscaping of this outline proposal are not currently before me, but SLP have confirmed that the existing hedgerows would be retained and enhanced. Guidance set out in Government Circular 06/2005 *Biodiversity and Geological Conservation – Statutory Obligations and their impact within the Planning System* explains that bearing in mind the delay and

cost that may be involved, developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of the species being present and being affected by the development.

116. Taking all of this into account, I consider that were I minded to grant outline planning permission for the development, concerns about the potential overall impact on the use of the appeal site by foraging bats could be adequately addressed by a condition requiring that surveys be undertaken to inform the Reserved Matters applications.
117. As to the possible presence of dormice, I note that while there are no historic records of dormice being found on this side of the River Tale, the species was recorded in hedgerows at the Wainhomes site, and so could be present in hedgerows at the SLP site. While two sections of the eastern boundary hedge would be removed, the absence of woody vegetation reduces the possibility of dormice being present and affected. By contrast, the western boundary hedge provides more suitable habitat conditions for dormice, and this would be enhanced by a belt of adjoining tree and shrub planting. Overall, as Wainhomes acknowledge, it is likely that the proposed development would provide improved opportunities for dormice.
118. I note that the Council considers the proposed development has the potential to add value to, rather than detract from, the biodiversity and ecological status of the appeal site. I share that view, and conclude that the concerns raised by Wainhomes in this respect do not weigh against granting permission for the proposal.
119. The SLP appeal site is not itself in an area at risk of flooding, but includes land that the Council is seeking to use in the delivery of its Flood Defence Scheme for the village. The provision of this land as part of the appeal proposal would provide immediate flood-risk reduction measures, in terms of surface water attenuation and improvements to the foul water drainage situation, for neighbouring properties to the south, and would assist the long-term plans for flood protection in Feniton. I recognise that the flood alleviation works could alternatively be completed by the Council using its powers as Land Drainage Authority, but the benefit of more prompt relief for the severe flooding problems currently experienced at Sweethams and Metcombe Cottages carries a small amount of weight in favour of the proposed development.
120. The development proposal also includes the provision of an area of serviced land, for employment use, and SLP suggests that this might enable the Coleridge Medical Centre to recommence surgeries in Feniton, and the pharmacy to re-open. However, there is no evidence to suggest that to date the lack of serviced land has been the only factor preventing the Medical Centre and pharmacy opening in Feniton, or that there is any current interest from other employment-generating potential occupiers. The land in question benefits from being close to the railway station, but the likelihood of its development and subsequent occupation for employment purposes is uncertain and would depend largely on the price, which is not subject to any proposed control mechanism. In the circumstances, I attach only very limited weight to the benefit of providing this employment land.
121. In addition to securing the affordable housing, the two S.106 Agreements relating to this proposal contain a number of other planning obligations. The

payment of a contribution toward a cycle route to St Mary accords with the aims of Local Plan Policy TA4, and the provision of a Travel Plan and Travel Vouchers to future occupiers of the proposed dwellings accords with the aims of Local Plan Policy TA3. Along with the provisions for the management and maintenance of the Public Open Space, Play Area and allotments provided as part of the development, these obligations meet the requirements of CIL Regulation 122.

122. The S.106 Agreement entered into with Devon County Council makes provision for payment of an Education Contribution; that is, the sum calculated by the County Council as necessary to fund the provision of additional education facilities needed to accommodate the children likely to be living in the proposed new houses [66]. It also includes the option for the County Council to accept the transfer into its ownership of land adjacent to Feniton Primary School, owned by the appellant, in lieu of payment of part of the overall Education Contribution to equivalent value.
123. I note SLP's contention that these provisions have considerable benefits, in terms of enabling the County Council to acquire the land needed for expansion of the Primary School. However, the Education Contribution calculated by the County Council took account of the costs of purchasing such land, and if it could not secure acquisition through negotiation with the landowner, it could do so through exercising powers of Compulsory Purchase. That being the case, I am not persuaded that the land transfer arrangements in the S.106 Agreement offer any tangible benefits above and beyond offsetting the impact of the development, which could equally be achieved by payment in full of the requested financial contribution. In my view they do not carry any additional weight in favour of this proposed development, but simply render its impact on local educational services neutral.
124. SLP also points out that the land in question is currently occupied by the Feniton Sports and Social Club, which would be served with a notice to quit if the land were to be transferred to the County Council, and under the terms of its lease, would then be paid a "compensation" payment of £200,000 if it vacated the land within 12 months. SLP contends that this sum of money will help the Club to fund the provision of a new pavilion, for which it already has planning permission. It seems to me that this chain of cause and effect is somewhat tenuous, and lacks certainty. For example, there is no indication that the Club is reliant on the compensation payment to fund its new pavilion, or that it would necessarily put the money to that purpose: the letter I was shown simply states that, as might be expected, the payment is "...something the Club fully intends to take advantage of."¹⁴ I do not doubt that the compensatory payment could potentially facilitate the Club's move from old to new premises, but I do not think this can reasonably be accounted a specific benefit of the development proposal such as to carry any appreciable weight in its favour.
125. I have found that constructing new housing in Feniton would be likely to increase the number of journeys made by private car [79], and this is an adverse environmental impact of some weight.
126. In the context of considering the impact that the Feniton Park Ltd appeal would have on the local community, I concluded that the construction of 32

¹⁴ Appendix 7 of Mr Seaton's proof of evidence

new houses on appeal would have an adverse impact on social inclusivity [103]. The 120 new houses proposed in this scheme would have a much greater impact; taken together with the 50 already permitted as Wainhomes Phase 1, the current proposal would increase the size of the 674-home village by 25%. This would increase the likelihood and extent of the harm to the existing community that I identified above [87 – 88], and so increases the weight this consideration carries in the overall balance.

127. Weighing all of these many considerations in the balance, I conclude that when assessed on its own merits, the adverse impacts of permitting this particular proposal would significantly and demonstrably outweigh the benefits.

The SLP 59-home Appeal

128. Since this proposal concerns a similar, but smaller, development on the same appeal site as the SLP 120-home scheme, the various benefits and adverse impacts are largely similar and so I need not repeat the reasons for their attribution here. Instead, I focus on the extent to which the differences between the two SLP schemes affect the weight afforded.
129. The provision of housing in the context of the district's existing shortfall remains a benefit of considerable weight, and the economic benefits associated with that housing carry a small amount of weight. However, as part of this proposal, only 25% of the new dwellings would be delivered as affordable homes, rather than the 40% that Local Plan Policy H4 specifies as the starting point for "windfall" sites such as this. In the context of the acknowledged district-wide need for affordable housing the provision of this reduced number is still a benefit, but of significantly lesser weight than it would carry had 40% been provided.
130. In my assessment of the impact that the SLP proposals would have on the character and appearance of the area, I concluded that the extent of the built-up development in the 59-home scheme would occupy a smaller proportion of the appeal site than would the built-up area of the 120-home scheme, and so the associated harm would be less. I went on to conclude that nevertheless, the harm that would be caused to the character and appearance of the area, by either of the two schemes, is an adverse impact of great weight [45].
131. Larger areas of publicly accessible open space would be provided by the 59-home scheme than by the 120-home scheme, and the additional community benefit associated with these would result in a slight increase to the weight carried in favour of permitting the smaller scheme. However, since I have found that the proposed provision of serviced employment land as part of the 120-home scheme would have benefits of only very limited weight, I do not consider these would be appreciably increased by the larger area of employment land to be provided under the 59-home scheme.
132. The weight attached to the adverse impact on heritage assets and the loss of approximately 5ha of Grade 2 agricultural land would remain the same as for the 120-home scheme, as would the weight attached to the benefit of early delivery of flood alleviation measures on the appeal site. The lower number of dwellings in this scheme would be likely to result in less of an increase in the number of journeys made by private car than would be the case for the 120-home appeal, but as with the 32 home Feniton Park Limited appeal, I consider this would still be an adverse environmental impact of some weight.

The lower housing numbers would also result in less of an adverse impact on the existing community, but again, as with the Feniton Park Limited appeal, this still needs to be afforded some weight in the overall balance.

133. The two S.106 Agreements completed in respect of this proposal would mitigate the impacts the development would otherwise have on local infrastructure and services, and would comply with the requirements of CIL Regulation 122, in the same way as the two S.106 Agreements completed in respect of the 120-home proposal.
134. I find that in comparison with the benefits of the 120-home scheme, the benefits of the 59-home scheme weigh very slightly heavier in the balance. Nevertheless, assessed on its own merits, the adverse impacts of permitting this particular proposal would still significantly and demonstrably outweigh the benefits.

Wainhomes

135. As with the other three appeal proposals, the provision of housing in the context of the district's existing shortfall is a benefit that carries considerable weight, and for the reasons already discussed above, the economic benefits associated with that housing carry a small amount of weight. The proposal includes the provision of 33 of the proposed 83 new houses as affordable dwellings, in accordance with Local Plan Policy H4, and this carries some further weight in favour of the proposed development.
136. I have concluded above that the harm the proposed development would cause to the character and appearance of the area is an adverse impact of considerable weight [54]. I have also found that the loss of Grade 2 agricultural land would be an adverse impact of some weight, as would the increase in journeys made by private car that would result from the proposed development. For the reasons discussed above [87 – 88], I consider that permitting 83 new house on appeal would have adverse consequences for the community, which carries some weight against permitting the proposed development.
137. In addition to securing the provision of the proposed affordable dwellings, the S.106 Agreement completed by the appellant, the land owners and the relevant authorities contains a number of other planning obligations. The provision of Public Open Space and an equipped play area are necessary to meet the needs of future occupiers. The financial contribution toward the Ottery St Mary Cycle Link accords with the aims of Local Plan Policy TA4, and the Education Contribution would enable the provision of additional education facilities needed to accommodate the children likely to be living in the proposed 83 new houses. I am satisfied that all of these obligations meet the requirements of CIL Regulation 122.
138. The S.106 Agreement also secures the completion of Flood Alleviation Works, as part of the Council's proposed Flood Defence Scheme for Feniton, on the owners' land or, if certain conditions are not met, payment of £200,000 instead. At the inquiry, Wainhomes contended that these works were not strictly necessary to make the proposed development acceptable in planning terms, since the surface-water drainage scheme that would form part of the development would, in any event, ensure that the construction of the new houses would not worsen the existing flooding problems in Feniton.

Nevertheless, delivery of the Flood Alleviation Works is an important component of the overall Flood Defence Scheme for Feniton, and informed the Council's assessment that the current proposal would be acceptable in terms of its impact on surface water drainage. That being the case I consider that this planning obligation is necessary to make the development acceptable in planning terms, and is directly, fairly and reasonably related to the proposed development. It therefore meets the tests of CIL Regulation 122.

139. I conclude that assessed on its own merits, the adverse impacts of permitting this particular proposal would significantly and demonstrably outweigh the benefits.

Conclusions

140. I have considered, in some detail, the impacts of each individual development proposal. The conclusion that emerges from that consideration is that the Feniton Park Ltd scheme ought to be permitted because, far from the adverse impacts significantly and demonstrably outweighing the benefits, the benefits would clearly outweigh the harm. As to the two SLP proposals and the Wainhomes scheme, I have found that the adverse impacts of each would significantly and demonstrably outweigh the benefits, which leads to the conclusion that planning permission for these three proposals should be refused.
141. Had I found that more than one of the proposed schemes should be permitted, it would have been necessary then to go on to consider their combined impacts, in order to assess whether any ensuing shifts in weight altered the balance of benefits and adverse impacts. However, it is clear that while the Feniton Park Ltd scheme should be permitted in any event, each of the other three proposals should be refused on the balance of their own merits. The effect of permitting any of these other proposals in addition to the Feniton Park Limited scheme would be to increase the weight on the "adverse impact" side of the balance, principally due to the additional harm that would be caused to the existing community through increasing the overall proportion of additional dwellings [87 - 88]. That being the case, there is no merit in assessing cumulative impacts further.
142. I determine that the Feniton Park Limited appeal should be allowed, but the SLP 120-home appeal, the SLP 59-homes appeal and the Wainhomes appeal should be dismissed.

Conditions

143. Each of the three appellants helpfully agreed with the Council a list of suggested conditions to be imposed if their respective appeals were allowed, and these were discussed at the inquiry. The list of conditions agreed between Feniton Park Ltd and the Council is document ID 56. I have considered these in the light of the tests set out at paragraph 206 of the NPPF, and the further advice contained in the PG. The conditions that I impose on the grant of planning permission for the Feniton Park Ltd proposal are set out in the schedule attached as Appendix C to this decision.
144. The first of those is a condition requiring the development to commence within two years. This reduction in the usual three-year time limit reflects the fact that taking prompt steps to address the district's current housing shortfall

is a consideration which has carried considerable weight in favour of permitting the proposal. The next condition imposes the standard requirement that the development be completed in accordance with the approved plans.

145. I have attached the suggested conditions requiring the development to be carried out in accordance with detailed schemes, which must first be approved by the Council, to ensure that the ecology and biodiversity of the site, including retained trees, are adequately protected and that all necessary mitigation measures are implemented and maintained.
146. Importantly, the Drainage Strategy for the proposed development involves disconnecting the surface water from Feniton's combined sewer system, so as to secure an overall reduction in flows discharging into that system. I have therefore imposed a condition requiring the design of a detailed surface water drainage scheme to be approved before development starts. I have also imposed a condition requiring a Construction Method Statement to be agreed with the Council before development starts, to minimise the impact on the living conditions of neighbouring residents during the construction period.
147. I have attached conditions requiring further details of the landscaping of the site, including the boundary treatments, and also details of the materials and finishes to be used for the external surfaces of the dwellings, to be agreed with the Council. This will help to ensure that the visual improvements associated with the proposed development are maximised. I have also attached the suggested series of conditions governing the provision of highway-related infrastructure, to ensure that safe access is available to all users. Finally, bearing in mind the previous use of the land, I have attached a condition specifying the action to be taken should contamination be discovered.

Jessica Graham

INSPECTOR

APPENDIX A: APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr R Ground, of Counsel He called:	Instructed by the Solicitor to the Council
Mr M Dickins MRTPI	Planning Policy Manager
Mr N Blackmore BSc(Hons) CMLI	Principal Landscape Architect
Mr C Rose BA(Hons) BTP MRTPI	Principal Planning Officer

FOR FENITON PARISH COUNCIL:

Mr C Hopkins MA (Oxon) PG Dip Law He called:	Solicitor (non-practising), Planning and Environmental Consultant
Mr M Smith	Chairman, Feniton Parish Council
Dr C Horrocks PhD MA (Cantab)	Post-Doctoral Research Assistant
Mr R Giles	Devon County Councillor for Feniton (1993-2013)

FOR FENITON PARK LTD:

Mr P Cairnes, of Counsel He called:	Instructed by Atkins Ltd
Mr A Jones BA(Hons) PgDipTP MRTPI	Principal Planner, Atkins Ltd

FOR STRATEGIC LAND PARTNERSHIPS:

Mr D Corsellis He called:	Solicitor, Stephens Scown LLP
Mr C Britton BSc(Hons) MLA CMLI	Managing Director, Chris Britton Landscape Associates
Mr D Seaton BA(Hons) MRTPI	Joint Founder, PCL Planning Ltd

FOR WAINHOMES (SOUTH WEST) HOLDINGS LTD:

Mr V Fraser, Queen's Counsel He called:	Instructed by Mr S Harris of Emery Planning Partnership
Ms C Brockhurst BSc(Hons) PgDipLA FLI	Partner, Tyler Grange LLP
Dr J Edis BA MA PhD MIFA IHBC	Partner, Heritage Collective LLP
Mr J Arthur BSc MSc CIEEM CEnv	Partner, Tyler Grange LLP
Mr I Awcock CEng MICE MIHT MCIWEM	Director, Awcock Ward Partnership
Mr S Harris BSc(Hons) MRTPI	Director, Emery Planning Partnership

INTERESTED PERSONS:

Mr T Ives	Ms J Blackmore
Ms C Gibbins	Ms T Bennett (on behalf of Mr and Mrs Cooper)
Mr Crowe-Swords	Mr E Peters
Neil Parish MP	Mr C Burton
Dr J Withrington	Mr B Knollman
Cllr C Wright	Cllr S Bond
Mr D Valentine	Mr D Lanning
Rev D Beaven	Mr M Simic
Ms V Jones	Ms P Hill
Ms G Ewings	Ms B Floodgate
Mr A Harper	Dr A Macintyre
Ms S Collins	Ms J Seal
Dr M J Hall (on behalf of CPRE)	Mr I Walker
Mr T Clarke	Mr M Maries
Ms M Cornish	Mr C Gibbins
Ms H Chapman	Mr L Mullinger
Rev K Edmonds	Ms E Clarke
Ms S Derbyshire	Ms B Powell
Ms M Hawker	Mr D Baker
Mr D May	Mr R Barras

Mr Gordon-Lennox (Solicitor to the Council), Mr Wood (Solicitor to Feniton Park Ltd), Mr Oliver (Solicitor to Wainhomes (South West) Holdings Ltd), Mr Cutler (Director, Feniton Park Ltd) and Mr Niles (Strategic Education Manager, Devon County Council) took part in the S.106 discussion session.

Mr Brown (Principal Planning Officer, East Devon Council) took part in the conditions discussion session.

APPENDIX B: DOCUMENTS SUBMITTED AT THE INQUIRY

- ID 1 Notice of appearances (with time estimates) on behalf of Feniton Park Ltd
- ID 2 Copies of e-mail correspondence between Feniton Park Ltd and the Council
- ID 3 List of erratum in Mr Jones' proof of evidence (submitted by Feniton Park Ltd)
- ID 4 Note of agreed position on Housing Land Supply (by all 5 main parties)
- ID 5 Copy of opening submissions made on behalf of Feniton Park Ltd
- ID 6 Copy of opening submissions made on behalf of SLP
- ID 7 Copy of opening submissions made on behalf of Feniton Parish Council
- ID 8 Draft S.106 Agreement, submitted by Wainhomes
- ID 9 Statement of Common Ground between the Council and SLP
- ID 10 4 executed S.106 Agreements, submitted by SLP
- ID 11 Bundle of letters from local residents, expressing concern about the change of inquiry venue from Feniton Bowling Club to the Flybe Training Academy
- ID 12 Copy of article entitled "Praise for village" published in the *Midweek Herald*, concerning flooding in Feniton
- ID 13 List of the names (and availability) of local residents wishing to speak at the inquiry
- ID 14 Copy of *Traffic Flow Ranges for Use in the Assessment of New Rural Roads*, submitted by Feniton Parish Council
- ID 15 Note setting out the existing width dimensions of Ottery Road to Patteson's Cross, submitted by Feniton Parish Council
- ID 16 Feniton and Buckerell Ward Method of transport to work comparison data 2001-2011, submitted by Feniton Parish Council
- ID 17 Copy of the IHT publication *Guidelines for Providing For Journeys On Foot*, submitted by Feniton Parish Council
- ID 18 Mr Awcock's Rebuttal Evidence, submitted by Wainhomes
- ID 19 Copy of the Devon County Council publication *Exeter-Honiton-Axminster Corridor: Infrastructure Report for East Devon Local Plan (July 2013)* submitted by Wainhomes
- ID 20 Copy of the current timetable for adoption of the emerging Local Plan and Villages Development Plan Document, submitted by the council
- ID 21 The Draft Programme for the emerging Local Plan's Examination in Public, submitted by the council
- ID 22 Copies of the Council's letters notifying interested parties that each of the four appeals had been lodged
- ID 23 Mr Awcock's Update Technical Note: Cumulative Impacts at Ottery Road, submitted by Wainhomes
- ID 24 Axminster Ward Method of transport to work comparison data 2001-2011, submitted by Feniton Parish Council
- ID 25 Supplementary Proof of Evidence of Dr Margaret J Hall (on behalf of CPRE)
- ID 26 Table setting out the three different methods put forward for assessing the percentage increase in dwellings in Feniton in the event that the Feniton Park Ltd proposal were constructed
- ID 27 Commentary on Mr Awcock's Rebuttal Evidence concerning drainage matters, submitted by Feniton Park Ltd
- ID 28 Copy of e-mail sent by Mr M Iles of Laurence Rae Associates Ltd to the Council on 15 March 2013, submitted by Feniton Park Ltd
- ID 29 Copy of the Laurence Rae Associates Ltd Drainage Strategy dated March 2013, submitted by Feniton Park Ltd

- ID 30 Copy of oral representations made to the inquiry by Cllr C Wright
- ID 31 Letter from Ms F K Jarrett (Headteacher of The King's School, Ottery St Mary) dated 4 December 2013, submitted by Cllr C Wright
- ID 32 Ariel photograph, Drainage Plan (extracted from the Wainhomes Flood Risk Assessment), Plan showing ground levels (provided by the Environment Agency) and collection of photographs showing flooding in December 2012, January 2013 and January 2014, submitted by Ms V Jones
- ID 33 Draft list of suggested conditions for the Feniton Park Ltd appeal
- ID 34 Extract from the July 2010 LVIA concerning the 50 houses permitted on appeal on land adjoining Louvigny Close, submitted by the Council
- ID 35 Devon County Council Position Statement, dated 8 January 2013, concerning Ottery Learning Community & Feniton Primary School
- ID 36 Draft S.106 Agreement and explanatory note, submitted by Wainhomes
- ID 37 Draft lists of suggested conditions for the two SLP appeals
- ID 38 Extract from the Costs Circular 03/2009, submitted by the Council
- ID 39 List of local residents wishing to speak at the inquiry's evening session
- ID 40 Documents submitted at the inquiry's evening session: copies of the representations made by Ms H Chapman, Mr I F Walker, Ms S Derbyshire, Cllr S Bond and Mr M Maries, and photographs of flooding at 23 Feniton Gardens and Patteson's Cross
- ID 41 Copy of Howick Consultants plan titled "Flood Alleviation Proposals Option 5C Relief Works 2" (drg. no. 110.5C Rev B), submitted by Wainhomes
- ID 42 Letter to the Inspector from Mr N M Bennett, dated 15 January 2014
- ID 43 Inspector's note concerning the S.106 Planning Obligations
- ID 44 e-mail to the Planning Inspectorate from Network Rail dated 16 January 2014, requesting a financial contribution of £1,045,000 if the four appeal proposals were to be allowed
- ID 45 e-mail to the Planning Inspectorate from Network Rail dated 23 January 2014, advising that it would like to withdraw its request for a financial contribution
- ID 46 e-mail to the Planning Inspectorate from Network Rail dated 27 January 2014, confirming that Network Rail has no objection to any of the appeal proposals
- ID 47 Costs Argument on behalf of Feniton Park Ltd
- ID 48 Cost Applications made in respect of the two SLP appeals
- ID 49 Note setting out the approach taken by Devon County Council to requests for contributions toward Education Infrastructure in respect of each of the four appeal proposals, submitted by the Council
- ID 50 Copy of the Devon County Council publication *Education Section 106 Infrastructure Approach*
- ID 51 Copies of correspondence with the Council relevant to the costs application, submitted by SLP
- ID 52 Response to the Inspector's note concerning Section 106 Planning Obligations, submitted by SLP
- ID 53 Copy of an e-mail dated 28 January 2014 from the County Council's solicitor concerning the enforceability of the relevant SLP S.106 Agreements
- ID 54 Copy of Appeal Decision ref: APP/U1105/A/13/2202124 (Land East of Harepath Road, Seaton, Devon) submitted by SLP
- ID 55 Copy of Devon County Council's Position Statement (January 2014) for the emerging Local Plan Examination in Public, submitted by SLP

- ID 56 Updated draft list of conditions for the Feniton Park Ltd appeal
- ID 57 e-mail from the Council's Solicitor to Feniton Park Ltd dated 25 June 2013, concerning the S.106 Undertaking
- ID 58 Updated version of Document 36 (supra), submitted by Wainhomes
- ID 59 Letter to the Inspector from Neil Parish MP, dated 4 February 2014
- ID 60 Photographs of flooding at and adjacent to the Wainhomes appeal site on 5 February 2014, submitted by Ms V Jones
- ID 61 Signed Statement of Agreement between the Council and Feniton Park Ltd that the S.106 financial contribution toward Flood Relief complies with Regulation 122 of the Community Infrastructure Levy Regulations 2010
- ID 62 Revised draft S.106 Unilateral Undertaking, submitted by Feniton Park Ltd
- ID 63 Copy of the Council's Supplementary Planning Document *East Devon Open Space Study*, including Appendix A "Developer Contributions"
- ID 64 Executed S.106 Agreements made between the Council, SLP and the owners of the SLP appeal site
- ID 65 Executed S.106 Agreement made between the Council, Devon County Council, Wainhomes and the owners of the Wainhomes appeal site
- ID 66 Executed S.106 Undertaking given by Feniton Park Ltd and the owners of the Feniton Park Ltd appeal site
- ID 67 Copy of the closing submissions made on behalf of Feniton Parish Council
- ID 68 Copy of the closing submissions made on behalf of the Council, including a copy of the judgment in *William Davis Limited, Jelson Limited v Secretary of State for Communities and Local Governments, North West Leicestershire District Council* [2013] EWHC 3058 (Admin)
- ID 69 Copy of the closing submissions made on behalf of Wainhomes
- ID 70 Copy of the closing submissions made on behalf of SLP
- ID 71 Copy of the closing submissions made on behalf of Feniton Park Ltd
- ID 72 Copy of the Council's response to the application for costs made by Feniton Park Ltd (Document 47 supra)
- ID 73 Copy of the Council's response to the applications for costs made by SLP (Document 48 supra)

DOCUMENTS SUBMITTED AFTER THE INQUIRY CLOSED

- ID 74 Letter from the Planning Inspectorate to the five main parties dated 17 March 2014, inviting comments on the implications of the PG for their respective cases
- ID 75 Feniton Parish Council's response to ID 74 supra, received 25 March 2014
- ID 76 The Council's response to ID 74 supra, dated 27 March 2014
- ID 77 Wainhomes' response to ID 74 supra, dated 27 March 2014
- ID 78 SLP's response to ID 74 supra, dated 26 March 2014

APPENDIX C: SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than two years from the date of this decision.
- 2) With the exception of any variation rendered necessary by compliance with conditions 3 – 12 below, the development hereby permitted shall be carried out in accordance with the following approved plans:

Existing site plan	343.22
Site location plan	343.01
Context plan	343/20H
Proposed site plan	343/21H
Street elevations and sections	343/23C
Proposed house type	343/03B
Proposed house type	343/04C
Proposed house type	343/07C
Proposed house type	343/08C
Proposed house type	343/09B
Proposed house type	343/10C
Proposed house type	343/11B
Proposed house type	343/12A
Proposed house type	343/13C
Proposed house type	343/14
- 3) No development shall take place, including any works of demolition, until details of all measures necessary to ensure that the development is undertaken in accordance with the baseline ecological assessment completed by Ambios Ecology (dated March 2011), and that the necessary mitigation measures are subsequently maintained, have been submitted to, and approved in writing by, the local planning authority. The development shall be carried out in accordance with the approved details.
- 4) No development shall take place, including any works of demolition, until a detailed scheme for the protection of retained trees during construction has been submitted to, and approved in writing by, the local planning authority. The Tree Protection Scheme shall include provision for the supervision of tree protection by a suitably qualified and experienced arboriculture consultant. The development shall be carried out in accordance with the agreed Tree Protection Scheme, shall adhere to the principles set out in BS 5837:2012 "Trees in relation to design, demolition and construction", and shall observe the following restrictions
 - no trenches for services or drainage shall be dug within the crown spread of any retained tree (or within half the height of that tree,

which ever is the greater) unless agreed in writing by the local planning authority;

- the installation of utilities shall be in accordance with the advice given in Volume 4: National Joint Utilities Group (NJUG) Guidelines for the Planning, Installation and Maintenance of Utility Apparatus in Proximity to Trees (Issue 2) 2007
- No changes in ground levels, or excavations, shall take place within the crown spread of any retained tree (or within half the height of that tree, which ever is the greater) unless agreed in writing by the local planning authority.

5) No development shall take place, including any works of demolition, until a detailed Surface Water Drainage Scheme has been submitted to and approved in writing by the local planning authority. The Scheme shall be implemented in accordance with the approved details prior to the occupation of any of the dwellings hereby permitted. The Scheme shall include

- information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
- a timetable for each stage of implementation; and
- a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

6) No development shall take place, including any works of demolition, until a Construction and Environment Management Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i) the parking of vehicles of site operatives and visitors
- ii) loading and unloading of plant and materials
- iii) storage of plant and materials used in constructing the development
- iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- v) wheel washing facilities
- vi) appropriate lighting
- vii) measures to control the emission of dust, dirt and other pollution, including noise and vibration, during construction and to prevent the burning of any materials on site
- viii) a scheme for recycling/disposing of waste resulting from demolition and construction works
- ix) measures to secure air and water quality

- x) the restriction of construction working hours to between 0800 and 1800 on Monday to Friday, and 0800 to 1300 on Saturdays, with no working on Sundays or Bank Holidays.
- 7) No development shall take place until a Landscaping Scheme has been submitted to and approved in writing by the local planning authority. The Scheme shall include details of the planting of trees, hedges, shrubs, herbaceous plants and areas to be grassed; details of proposed walls, fences and other boundary treatments; a timetable for implementation; and details of future maintenance. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.
- 8) No development shall take place until a schedule of materials and finishes to be used for the external walls and roofs of the permitted development, and if requested by the local planning authority samples of specific materials and finishes, has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 9) No development shall take place until plans and sections indicating as appropriate the design, layout, levels, gradients, materials and method of construction of the estate road, cycleways, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, road maintenance / vehicle overhang margins, embankments, visibility splays, accesses, car parking and street furniture have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 10) No development shall take place until
 - the access road has been laid out, kerbed, drained and constructed up to base course level for the first 20 metres back from its junction with the public highway;
 - the ironwork has been set to base course level and the visibility splays required by this permission laid out;
 - the footway on the public highway frontage required by this permission has been constructed up to base course level; and
 - a site compound and car park have been constructedin accordance with details approved under condition no. 9 above.
- 11) None of the dwellings hereby permitted shall be occupied until
 - the spine road and cul-de-sac carriageway, including the vehicle turning head, have been laid out, kerbed, drained and constructed up to and including base course level, the ironwork set to base course level and the sewers, manholes and service crossings completed;
 - the spine road and cul-de-sac footways and footpaths which provide that dwelling with direct pedestrian routes to an existing

highway maintainable at public expense have been constructed up to and including base course level;

- the cul-de-sac visibility splays have been laid out to their final level; and
- the car parking and vehicular access for that dwelling has been completed

in accordance with details approved under condition no. 9 above.

- 12) In the event of any contamination of soil and/or ground or surface water being discovered during excavation or development of the site, the local planning authority shall be contacted immediately. Site activities in the area affected shall be suspended until such time as a method and procedure for addressing the contamination is approved in writing by the local planning authority.

Appendix 8

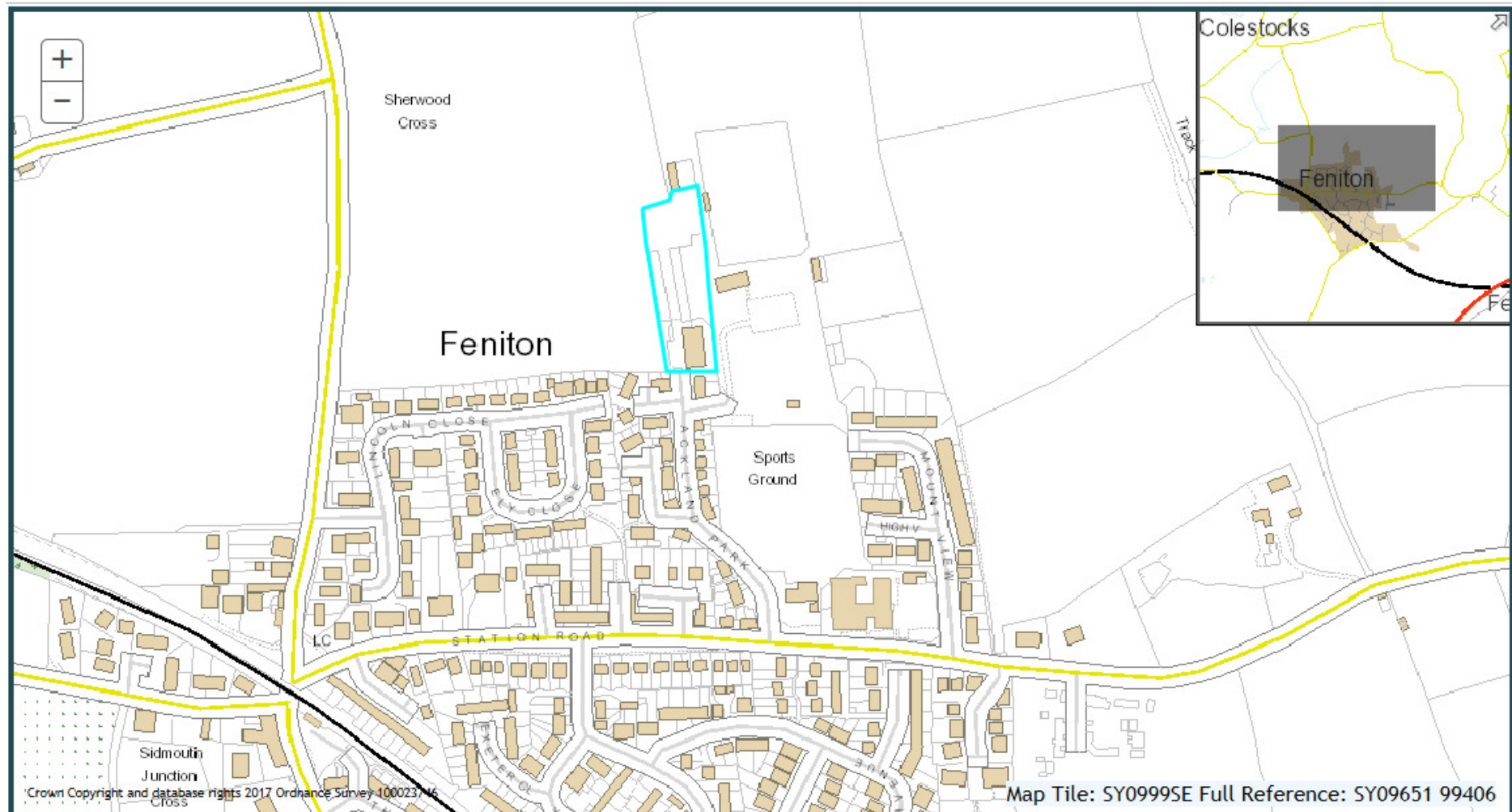
Maps showing appeal sites in Feniton

All sites boundaries are generated from East Devon District Council mapping systems and show planning application boundaries as recorded by the Council. The boundaries, shown in pale blue, are believed to be accurate but to ensure full complete accuracy original planning applications should be reviewed.

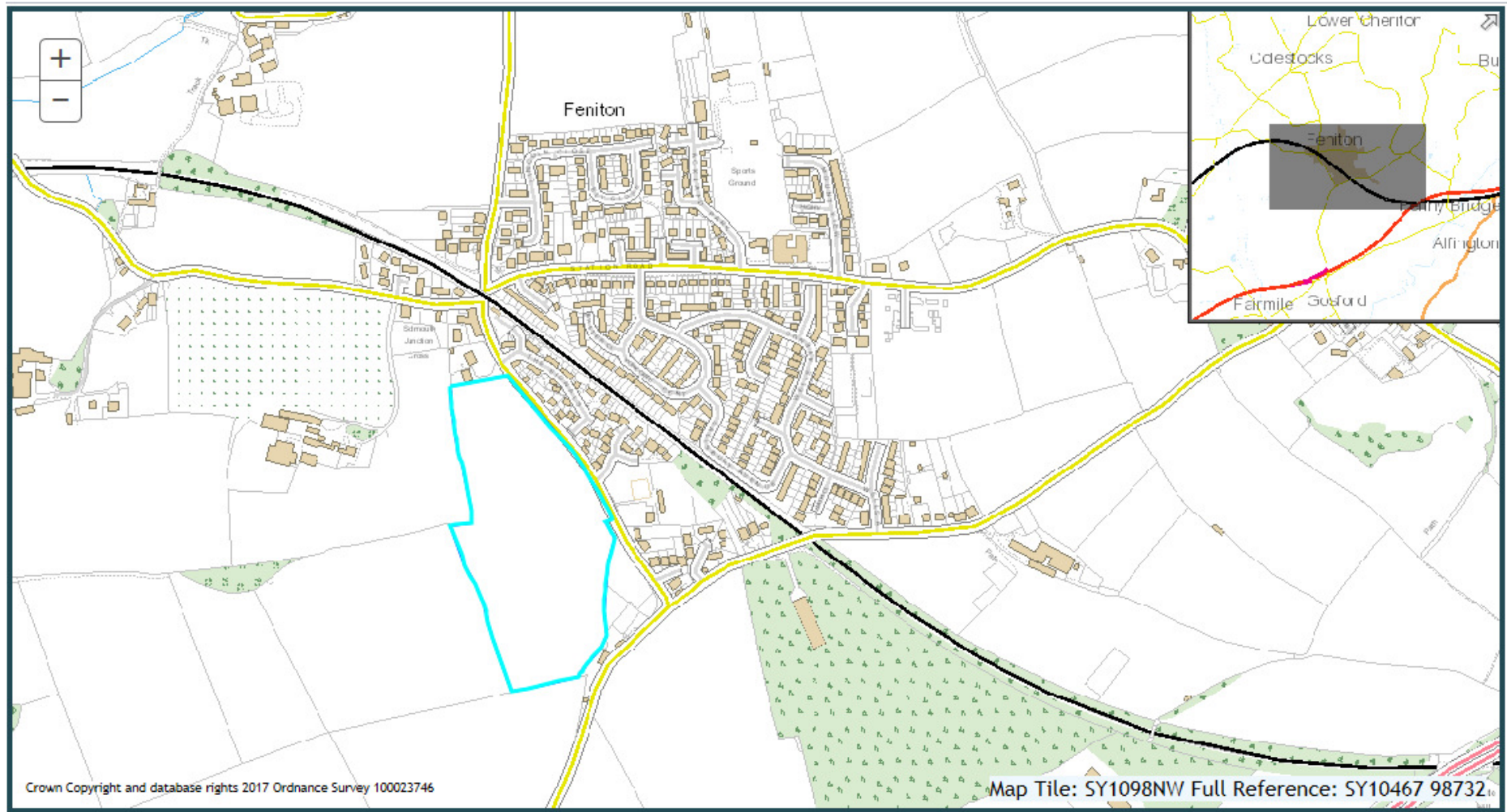
The East Devon planning application reference numbers are:

- LAND ADJACENT TO/NORTH OF ACLAND PARK FENITON - 11/1021/MFUL.
- LAND WEST OF OTTERY ROAD FENITON - 12/2648/MOUT and 12/2649/MOUT.
- LAND ADJACENT TO LOUVIGNY CLOSE, STATION ROAD FENITON - 13/0591/MFUL.

LAND ADJACENT TO/NORTH OF ACLAND PARK FENITON - 11/1021/MFUL



LAND WEST OF OTTERY ROAD FENITON - 12/2648/MOUT and 12/2649/MOUT



The two applications had the same boundary and so only one map has been produced.

LAND ADJACENT TO LOUVIGNY CLOSE, STATION ROAD FENITON - 13/0591/MFUL

