

Examination of the New East Devon Local Plan 2006-26

Hearing Session Number 17 – Ottery St Mary & Seaton

Seaton Addendum Report

East Devon District Council Written Statement for

Thursday 6 March 2014

This paper forms an addendum to the response of East Devon District Council in respect of questions raised by the Inspector for the above Local Plan Examination Hearing Session.

This evidence has been prepared for the Council by:
Claire Rodway – Senior Planning Officer – MRTPI

Seaton

- 1.1 This addendum paper has been prepared to take account of an appeal decision which was received after the deadline for papers to be submitted. The outstanding appeal (ref 12/1185/MOUT) was referred to in the paper and this addendum provides additional information in respect of the implications of the decision.
- 1.2 The previous paper establishes that Seaton is a medium sized coastal town closely surrounded by high quality landscape and areas of nature conservation value, reflected by the Coastal Preservation Area, National and Local Nature Reserves and nearby Area of Outstanding Natural Beauty which tightly constrain development potential. A green wedge has been designated between Seaton and Colyford to address coalescence concerns and it was a development proposal that in part was in this green wedge that was subject of the appeal.
- 1.3 The constraints imposed by the various policy designations have been a major consideration in the search for suitable development sites in and around Seaton, with sites likely to result in the least landscape impact identified in the Plan to be developed first. In recognition that Seaton is also subject to an abundance of archaeological remains (the location of some of which have not been comprehensively mapped), the presence of protected species (which will need to be

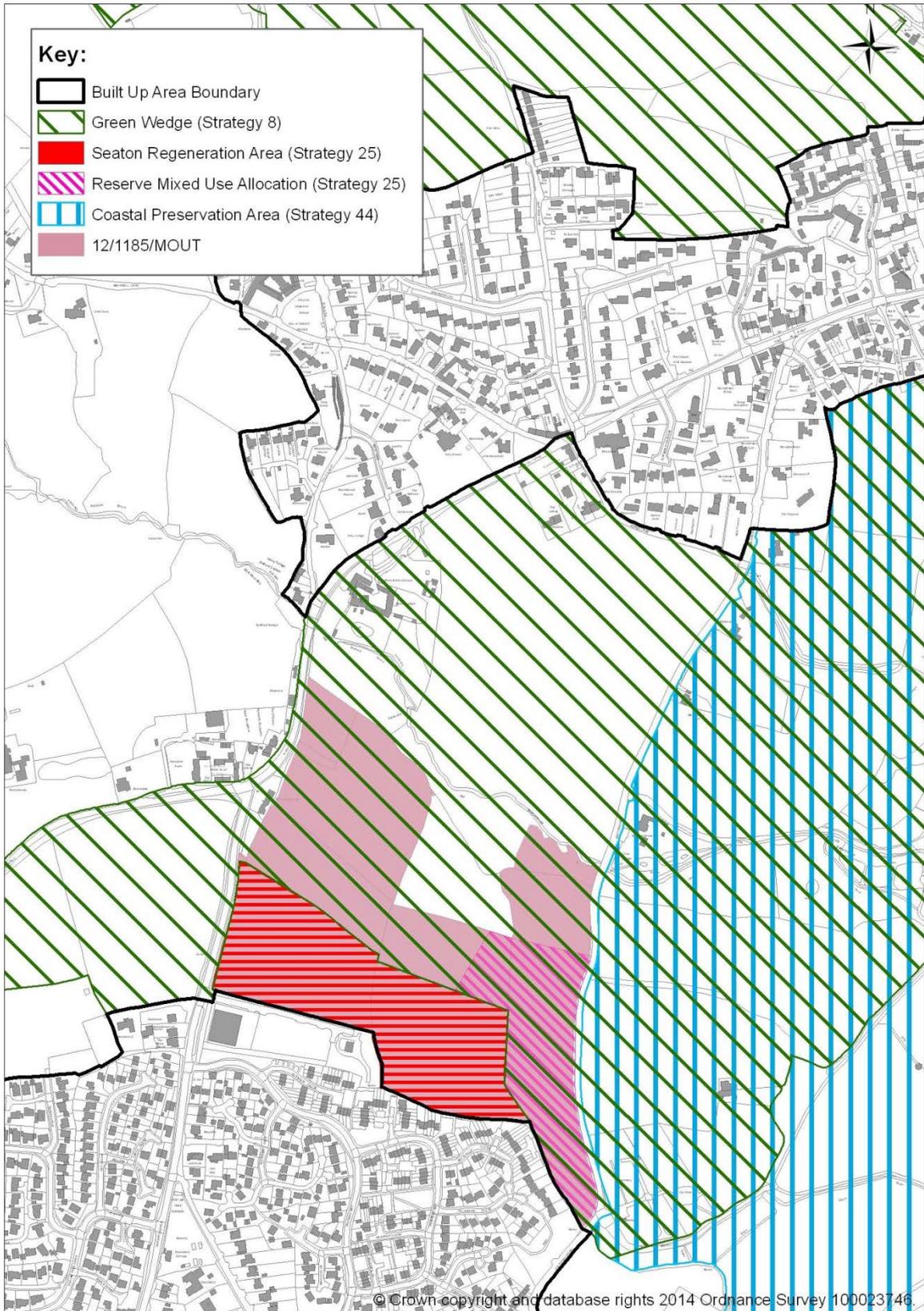
assessed as part of any planning application) and infrastructure constraints it was considered prudent to allocate a 'reserve' site in case the preferred sites could not be developed to their full capacity or if a shortfall in housing delivery were to otherwise arise. By necessity, this reserve site had to be located on the periphery of the town and, compared to alternative sites, E315 was considered the least harmful. The green wedge designation remains in place and development would need to be sympathetic to it. Other sites were considered to have a greater impact on the landscape (two large sites on the western side of the town being located in the Coastal Preservation Area), on the green wedge (either individually or cumulatively with allocated sites) or are too small to contribute significantly but development would be prominent in the landscape.

1.4 The development dismissed on appeal is a mixed use development, comprising a Business Development Unit (BDU); Offices, Workshops; Residential Development; Play Area and Sportsfield with 2 football pitches, MUGA, pavilion and parking, with all supporting infrastructure, including a spine road. The appeal site covered a much larger area than the sites allocated for development in the Local Plan (118B, allocated for employment and recreation and reserve site E315). It extends northwards beyond 118B and E315 into the green wedge by some additional 250m (on the western side) and 125m (on the eastern side) so that the remaining 'gap' between Seaton and Colyford was barely more than a field wide in places. In reaching his decision the Inspector stated that, due to the undermining of the effectiveness of the Green Wedge policy the scheme was "not considered to meet all three strands of the NPPF's role for sustainable development, and that the shortfall in housing land supply is not so severe as to justify overriding these concerns at this stage". He went on to say that "the housing shortfall although significant is – arguably - relatively shortterm, whereas the erosion of separation between Colyford and Seaton would be permanent, and should not be acceded to lightly".

1.5 It is considered that the Inspectors decision is not at odds with the Local Plan 'reserve site' approach as he recognised that some development could take place without excessive harm. He states that "it is clear that the underlying intention in both the EDLP and the eEDLP is to maintain a degree of open countryside between the two settlements, albeit the actual extent of such separation may be flexible. That is, having regard to the underlying policy context, some development in this area could be acceptable without conflicting with its main purposes". In line with this flexibility,

the Local Plan allows the sympathetic development of the reserve site but only if the preferable, allocated, sites are unable to deliver the necessary housing. Adjacent site 118B, identified for mixed use employment and recreation does not encroach on the green wedge.

- 1.6 The appeal site extended northwards over a significant proportion of the green wedge and would have introduced significant development across it, including into the western, narrowest part of the gap between Colyford and Seaton. By contrast, the reserve site would cover a much smaller area and be restricted to the north eastern, considerably wider section. This would result in a lesser degree of harm as noted by the Inspector “On the east side the proposed scheme would take the northern edge of Seaton some 200 metres (m) further north towards Stafford Brook, bringing houses up against the woodland. There would still be a break of about 500m between the proposed development and the southern edge of Colyford. Although the new housing would probably stand along, or perhaps even beyond, the crest of the ridge running up from Stafford Brook, a substantial break or gap between the two settlements would be maintained. The woodland would screen about half of the northern edge of the housing area, visually reinforcing the perceived separation between the proposed scheme and this southern edge of Colyford. This part of the scheme would broadly correspond with the E315 allocation on the eEDLP.”
- 1.7 In conclusion, whilst it is regrettable that development of E315 would erode a section of the green wedge, the reserve site remains the least harmful location, of the sites available, for the delivery of any shortfall in residential land. It should continue to be identified in the Local Plan as a ‘reserve’ site but should not be allocated as there are other, preferable sites which should be developed first and which will, ideally, negate the need for the reserve site to be brought forward at all.



Appeal Decision

Inquiry held on 10-13 and 17 December 2013

Site visit made on 13 and 17 December 2013

by Geoffrey Hill BSc DipTP MRTPI

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

Decision date: 20 January 2014

Appeal Ref: APP/U1105/A/13/2202124

Land East of Harepath Road, Seaton, Devon EX12 2WH

- 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 Seaton Park (Devon Ltd) against the decision of East Devon District Council.
 - The application Ref 12/1185/MOUT, dated 18 May 2012, was refused by notice dated 14 June 2013.
 - The development proposed is a mixed use development, comprising a Business Development Unit (BDU); Offices, Workshops; Residential Development; Play Area and Sportsfield with 2 football pitches, MUGA, pavilion and parking, with all supporting infrastructure, including as spine road.
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Decision

1. The appeal is dismissed.

Application for Costs

2. At the inquiry an application for costs was made by Seaton Park (Devon) Ltd., against East Devon District Council. That application is the subject of a separate Decision.

Preliminary Matter

3. The application is for outline planning permission, but with all matters reserved for subsequent consideration. Plans submitted in support of the application are regarded as being for illustrative purposes only.

Main Issues

4. There are five main issues in this appeal.
 - i) The effect of the proposed development on the character and appearance of the area, having regard to the landscape setting and the desirability of maintaining separation between Seaton and Colyford
 - ii) The effect of the proposed development on wildlife interests locally, with particular regard to bats.

- iii) Whether the proposed scheme includes an appropriate proportion of affordable housing having regard to local needs and the viability of the development.
- iv) Whether the scheme would lead to an unacceptable loss of good quality agricultural land.
- v) Whether any adverse impacts (should there be any) would significantly and demonstrably outweigh the benefits of the proposed scheme when assessed against the policies of the National Planning Policy Framework.

Reasons

Policy context

5. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that an application for planning permission should be determined in accordance with the development plan unless material considerations indicate otherwise. In this appeal, with the revocation of the Regional Strategy and the Devon Structure Plan, the development plan comprises the East Devon Local Plan 1995-2011 (EDLP). Whereas the EDLP's policies are configured to run until 2011, the Secretary of State has 'saved' many of its policies, until such time as they are superseded by the emerging review of the Local Plan 2012 (eEDLP).
6. In 2012 the National Planning Policy Framework (The Framework) was published, which sets out the government's priorities for planning, including support for sustainable development and the expectation that development should be permitted without delay where it accords with the development plan or, where the development plan is out of date, planning permission should be granted unless any adverse effects would significantly and demonstrably outweigh the benefits when assessed against The Framework as a whole. The Framework also requires a local planning authority to ensure that there this a 5-year supply of deliverable housing land, with an additional margin depending on whether there has been a history of persistent under-provision locally.

Character and appearance

7. Having regard to the advice in The Framework, the Council accept that it does not have a 5-year land supply which also takes account of the need for an additional 20% to allow for previous under-provision. In which case, at least some of the EDLP's policies must be regarded as being out of date, and particularly those which serve to restrict the release of land for housing development. This would include Policies S2 and S3 which set boundaries for built up areas and – arguably – S6, which establishes a Green Wedge between Seaton and Colyford. I consider the continuing relevance of S6 below. However, on the basis that there should be a greater willingness for releasing land for housing on the peripheries of settlements, it is necessary to assess the proposed scheme in the light of other policies which are not necessarily considered out of date; these would include S5 – countryside protection, and EN2 relating to Areas of Great Landscape Value. Having regard to these policies, the concern is therefore, would the proposed development unacceptably harm the character and appearance of the countryside hereabouts.
8. The appeal site is an area of open countryside between the northern edges of Seaton and Colyford. The land is gently undulating, and is crossed by a small

stream (Stafford Brook). There is a small area of established woodland to the south of the stream, approximately in the centre of the site. Within the site there are no strong physical boundaries, but ridges or crests in landform provide visual breaks and maintain a sense of separation between the two settlements.

9. A large part – and perhaps the majority - of the site is within an area shown as Green Wedge under Policy S6 of the EDLP. The policy was characterised at the inquiry as one which seeks to maintain the separation between Seaton and Colyford. The Green Wedge boundary on the north side of Seaton is, for the most part, adjacent to the limit of the defined built up area under Policies S2 and S3. However, the EDLP also includes an allocated development site (LSE2) which is beyond the built up area boundary. LSE2 is included within the appeal site.
10. This same situation is carried forward into the emerging review of the Local Plan (eEDLP) with the earlier allocation LSE2 being shown as a mixed use employment and recreation area (118B). There is also an additional area to the east alongside Colyford Road, shown as reserve mixed use allocation (E315). This reserve allocation site is also within the defined Green Wedge, which could be taken to indicate a degree of ambivalence in the mind of the Council over the need to safeguard all of the Green Wedge. At the inquiry it was confirmed that there is no policy or supplementary planning document which explains in detail the purpose of the Green Wedge and what features must be safeguarded to ensure its role is maintained. Nevertheless, it is clear that the underlying intention in both the EDLP and the eEDLP is to maintain a degree of open countryside between the two settlements, albeit the actual extent of such separation may be flexible. That is, having regard to the underlying policy context, some development in this area could be acceptable without conflicting with its main purposes.
11. I appreciate that eEDLP is at an early stage in its adoption and its policies and proposals are yet to be examined. It is possible that its policies could be revised or even deleted as a consequence of the examination, but the Green Wedge policy is not a new policy; it has simply been carried forward from the EDLP, and the decision to retain the Green Wedge has been made by democratically elected locally Members. Its general strategic or structural purpose – if not the precise extent and boundaries - therefore continue to carry weight in this appeal.
12. The appeal site has frontages to two roads. On the east side the proposed scheme would take the northern edge of Seaton some 200 metres (m) further north towards Stafford Brook, bringing houses up against the woodland. There would still be a break of about 500m between the proposed development and the southern edge of Colyford. Although the new housing would probably stand along, or perhaps even beyond, the crest of the ridge running up from Stafford Brook, a substantial break or gap between the two settlements would be maintained. The woodland would screen about half of the northern edge of the housing area, visually reinforcing the perceived separation between the proposed scheme and this southern edge of Colyford. This part of the scheme would broadly correspond with the E315 allocation in the eEDLP.

13. On the western side the site fronts on to Harepath Road. Here development would extend into the site allocated in EDLP as LSE2 (118B in eEDLP). It is also proposed to take built development beyond this, with industrial units running up behind The Long House and urban-type recreational provision in the form of changing rooms and a Multi-Use Games Area (MUGA) and associated car parking.
14. Beyond the industrial units it is proposed to create football pitches. Whereas these would be essentially open land uses, and may be uses which could be appropriate within a formal Green Belt, to create a playable level area, it would be necessary to undertake considerable levelling and excavation/embanking of the land because it slopes down towards Stafford Brook, where the watercourse passes under main road at the sign marking the entry to Colyford. That is, the football pitches would not be inconspicuous, and especially so if it were found to be necessary to erect perimeter fencing to stop balls straying over the perimeter of the playing field area.
15. This part of the scheme would introduce a form of urbanised, or semi-urban (ie non-rural) development into the narrowest part of the current gap between Colyford and Seaton, plus the new industrial units as built development some 70m further than LSE2 into the undeveloped gap. This would markedly erode the present rural or undeveloped nature of this part of the Green Wedge, reducing the extent of truly undeveloped area to a single field adjacent to Stafford Brook, which itself could be overlooked to some degree by the earthworks of the football pitches.
16. The gap at present is obvious, especially in views from the west when approaching along Harepath Hill (A3052). The proposed development would effectively close the gap, taking virtually all of the presently undeveloped land and negating the sense of Colyford as a separate settlement. I acknowledge that there would be retained hedges and some additional planting – both on the site and in adjacent areas - to screen at least some of the new development but, even when fully grown, this would not entirely screen the appearance new development, particularly in the elevated views from Harepath Hill. Neither would the screen planting overcome the change in character of this area from open rural to an (albeit partially screened) virtually continuous urbanised area, with the perception of coalescence of Colyford and Seaton at this point.
17. All of the land north and east of LSE2 is shown as an Area of Great Landscape Value (AGLV) under EDLP Policy EN2 but, as noted above, a significant proportion of the appeal site is being proposed as potential development area in the eEDLP. This suggests to me that the landscape at this point is not seen by the Council to be particularly sensitive. Furthermore, it could be argued that with the revocation of the Devon Structure Plan – which set the basis for the AGLV categorisation – this part of the EDLP has to be regarded as being out of date in the context of the guidance of The Framework, and need not be regarded as a relevant policy; indeed, it is not referred to in the Council's Reasons for Refusal. However, it is an indication of the respect in which the landscape is held locally and that a degree of care has to be given when new development is proposed.

18. It would be disproportionate to regard the AGLV categorisation as precluding the possibility of any new development hereabouts on landscape grounds alone – particularly since The Framework places greater emphasis on safeguarding areas with the highest level of protection (National Parks and Areas of Outstanding National Beauty). Nevertheless, I come to the view on the first main issue that the proposed development would harm the character and appearance of the area in the vicinity of The Long House and towards the southern edge of Colyford along the A3052, eroding the physical, visual and psychological separation between Colyford and Seaton at this point, which the Green Wedge policy seeks to retain.

Wildlife

19. It is common ground between the parties that bats are found on and around the site. The bats use the site either as part of a foraging area in itself, or it lies across a migration route between roosting or hibernation sites, maternity sites and foraging areas. Bats are a statutorily protected species and it is necessary to consider if the proposed scheme would seriously interfere with the wildlife interests.
20. The planning application was refused because of an alleged conflict with EDLP Policies EN5 and EN6. Policy EN5 seeks to safeguard County Wildlife Sites and Local Nature Reserves. The sites concerned are not named or otherwise identified in the reasons for refusal. The Axe Estuary Wetlands, which lies immediately to the east of the appeal site, is shown as a County Wildlife Site on the EDLP Proposals Map. There are no other County Wildlife Sites or Local Nature reserves shown on, or within 300m of, the appeal site. Policy EN6 seeks to protect sites which are seen to be important wildlife habitats where development would result in loss or significant damage to the nature conservation value. This applies where a site is seen to be link between other wildlife sites. However, the application was not refused because of an alleged conflict with EDLP Policy EN4 which seeks to safeguard nationally important sites. This last point is significant in an assessment of the arguments put forward at the inquiry.
21. Several species of bats have been observed at, or in the close vicinity of, the site. It was argued that the appellant could have undertaken closer or more detailed studies of what bat species are to be found at the appeal site, which would have revealed more information on the types of bats and the significance of the appeal site as part of their habitat, and extent to which the appeal proposals might interfere with the wildlife interest. In particular, it was argued that insufficient attention had been given to the presence of grey long-eared bats, which are rare in the UK.
22. Although at least some of the bats known to cross this site have a nationally important roosting and mating site at Beer Quarry Caves SAC¹, which is a site protected under Policy EN4, the appeal site itself is not a nationally important site. However, it is part of a migration corridor between Beer Quarry Caves and foraging areas in the wider area – not least being the County Wildlife Site of Axe Estuary Wetlands. The site also lies across a migration route for bats to a roost at Bryanston School, Blandford Forum – some 50 miles distant.

¹ Special Area of Conservation

23. Natural England is the consultee for an opinion on whether a planning proposal would seriously harm wildlife interests for a statutorily protected species. It was not argued the Natural England is not a competent body or that it does not understand its duties under The Habitats Directive or the UK Habitats Regulations². Natural England came to the view that, subject to detailed consideration of the proposed mitigation measures, there would be no unacceptable adverse effect on the protected species, either directly at the nearby County Wildlife Site or the Beer Quarry Caves SAC, or indirectly as a consequence of development on the appeal site.
24. Whereas more information could have been collected or different equipment used to gather information, I accept that sufficient information was provided to enable Natural England to come to its view that there would be no unacceptable interference with the bats. The Council, or local residents with a particular interest and expert knowledge, did not go back to Natural England in the period leading up to this inquiry to query its consultation response on the application, or to ask for a review of that response in the light of further information that had come to light.
25. It was noted that grey long-eared bats are amongst the species identified at or in the vicinity of the appeal site. Whereas grey long-eared bats are rare in the UK, the evidence at the inquiry was that this is a common species on the continent where it is not under threat or an endangered species. It is not listed as a protected species in England and, although I accept there is considerable local interest in the presence this species and the nearby maternity colony, that interest is not sufficient to negate the view expressed by Natural England that, having regard to the relevance of the appeal site to the known protected species, the proposed scheme could be configured to include suitable mitigation, such that any possible interference with protected wildlife species would not justify dismissing the appeal for this reason.
26. At the inquiry the possibility of there being great crested newts – another protected species - on, or close to the site was raised. However, other than a generalised question challenging the adequacy of the surveys conducted by the appellant, no firm evidence was brought to the inquiry to show that the information provided to English Nature was deficient, or that the survey was not conducted in accordance with protocols accepted as being adequate by Natural England. I do not consider that there is sufficient evidence to set aside the conclusions of Natural England on the significance of the impact of the proposed scheme insofar as it may affect protected species of newts.
27. Local residents have commented that the site and its hedges are the habitat of wildlife, both birds and mammals, and the scheme would result in the loss of such habitat. I accept that this would be matter for regret for many. However, nothing was brought to this inquiry which demonstrates that the habitat hereabouts is particularly rare or sensitive, such that it requires special protection. It is likely that similar concerns could be raised against development on any other site on agricultural land around the built up areas in this vicinity and, if accepted as a principal for objection, it would preclude all new development on expansion sites. This would not correspond with the expectations of The Framework which establishes a presumption in favour of sustainable development, nor the eEDLP, which accepts that further

² The Conservation of Habitats and Species Regulations 2010

development is required in this locality. That is, whilst I do not ignore such concerns and acknowledge that the displacement of wildlife on, and close to, the site would be a matter for disappointment, this cannot be an overriding objection.

28. Local residents also argued that the scheme would harm the Axe Wetlands Wildlife Site. This concern was raised – in addition to the concerns relating to bats which use the wildlife site - in general terms relating to the loss of the appeal site as foraging areas for Barn Owls and other birds which live on the wildlife site, and the possibility of additional traffic increasing the risk of collisions with Barn Owls. There was also a concern about domestic cats hunting across the wildlife site. The new development would, indeed, bring additional built development closer to the wildlife site, but it would not extend across Colyford Road; the road would represent the physical extent of development and it would not have a direct physical impact on the wildlife site. I do not consider that the amount of additional traffic would be so great as to represent a serious threat to the Barn Owls living on the wildlife site.
29. The County Wildlife Site boundary runs adjacent to much of the present eastern edges of the built up area of Seaton and it was not argued that this was incompatible with the ecological value or interest of the wetlands. The proposed scheme may lead to additional surface water run-off into Stafford Brook, which runs into the River Axe across the wildlife site, but it has been accepted by the Environment Agency that this can be controlled such that there would be no unacceptable increase in flood risk or pollution of surface waters. From the evidence presented at this inquiry, I do not consider that the proposed scheme would have an unacceptably harmful effect on the Axe Estuary Wetlands County Wildlife Site.
30. Taking all of the above points together I do not consider that the proposed development would result in significant or unacceptable harm to wildlife interests locally.

Affordable housing

31. Policy H4 of EDLP looks for a minimum of 40% of new residential development to be made available as affordable housing. The appeal scheme offers 20% as affordable housing. On the face of it, this is in direct conflict with the requirements of the development plan policy. However, paragraph 5.38 of the reasoned justification for Policy H4 makes clear that 40% is regarded as the starting point for negotiation, and a different (in this case, smaller) proportion may be acceptable, depending on whether the 40% figure would threaten the viability of the scheme.
32. The evidence heard at the inquiry showed that the landowner would not be willing to make the site available for a figure which, it could be argued, is closer to the objectively assessed market valuation of the site calculated by the District Valuer, having regard to the history of transactions of this kind in the locality in recent months. It was accepted that, for reasons of commercial confidentiality, during such negotiations not all information is made available or openly discussed, and hence it may not be always clear why a landowner may not be willing to sell at a price closer to the assessed market value.

33. In this case it is argued that, at least to some degree, the employment and recreational elements of the scheme will not be financially self-supporting and they will have to be subsidised to make the overall development viable. A higher proportion of affordable housing would undermine the overall viability of the scheme, with the consequence that the employment land and recreational provision – both of which are seen to be needed by the Council in both EDLP and eEDLP – would not be brought forward. Indeed, The Framework stresses the need to deliver sites which are put forward for sustainable development and it would be appropriate to apply a degree of flexibility over matters such as the proportion of affordable housing.
34. Drawing these points together, there may be some unanswered questions over the claim that more than 20% affordable housing would render the scheme unviable. But that uncertainty may also be unanswerable, at least through the medium of a planning inquiry where it is not appropriate, or possibly even proportionate, to require the disclosure of commercially confidential information. Whereas 20% would be less than the policy expects, this is not in direct conflict with the policy, having regard to the acknowledgement that a lower figure could be acceptable where viability is threatened. I note that the lower figure was seen to be acceptable to the Council's officers who had been engaged in discussions with the applicant if, for no other reason that, on balance, it would be an appropriate contribution if it also meant that the employment and recreation parts of the scheme would come forward. In which case, whilst it may be a matter for regret that 40% may not be on offer, I come to the view that, on balance and in the light of the information available at the time of this inquiry, the proposed scheme includes an appropriate proportion of affordable housing having regard to local needs and the viability overall of the development.

Agricultural land

35. Paragraph 112 of The Framework requires local planning authorities to take into account the economic and other benefits of the best and most versatile agricultural land. The appeal site is classified as Grade 2 under the MAFF³ categorisation; that is, it is farm land which is regarded as being the best and most versatile.
36. Whereas The Framework seeks to give consideration to the retention of such land, it does not indicate that taking it for built development is wholly unacceptable. The policy is that if land of a lower quality is available as an alternative, then this should be preferred. However, the policy does not represent an absolute embargo on building on the best and most versatile land.
37. The availability of lower grade land as alternative development sites was not discussed at the inquiry in any detail. Indeed, it would not have been appropriate to have done so; such discussions are more relevant to the examination stage of the review of the Local Plan and the identification of preferred sites for future development. In this context, if there were no other objections to the proposed scheme, the fact that it would result in the loss of Grade 2 agricultural land would not be an overriding concern which, of itself,

³ Ministry of Agriculture, Fisheries and Food – now Department of Food and Rural Affairs.

would justify dismissing the appeal. However, it does add some weight to the overall balance of considerations.

Third party concerns not addressed above

38. Local residents and other interested persons raised points of objection, either in person at the inquiry, or in the written representations. Several of these concerns have been discussed above, but I address the more significant of the additional points below.
39. It was argued that the new development would appear intrusive in the landscape and that it would intrude into significant views across the local area. I have already noted above that much of the countryside around Seaton and Colyford is categorised as an Area of Great Landscape Value (AGLV). However, because of the extensive nature of that categorisation, it cannot be taken to preclude all new development in this area. There is an acknowledged need for additional housing and it is perhaps inevitable – because of the extensive application of the AGLV categorisation – that at least some of this will have to be directed towards land which is AGLV. In which case, any development at or on the peripheries of Colyford and Seaton will be seen in the landscape.
40. In this case, the development will be contained to the west side of Colyford Road and it would not extend into the open countryside of the Axe valley. The development would be at least partially visually contained by the landform, where there is a slight ridge between the site and the wider landscape of the valley. Viewed from the opposite side of the valley, from locations on the road into Axmouth, the new development would be seen as a continuation of the present urban area, and it would not intrude into any particularly sensitive views or appear conspicuous against the skyline. So, although the new development would be seen from a number of locations, it would not appear so intrusive or incongruous as to seriously harm the generally open and attractive landscape which has been designated as AGLV.
41. It was also contended that the proposed scheme would harm the tourist attractions of the area, notably the coast and the Area of Outstanding National Beauty (AONB). As noted above, the proposed scheme would lead to the perceived coalescence of Colyford with Seaton in the vicinity of Harepath Hill and this may have a very minor impact on how visitors to the area might think of the town and its tourist potential, but I do not agree that this would be so harmful as to significantly impinge upon the attractiveness of the town as a tourist location. The site is about 1.5 Km from the seafront at Seaton and hence there would be no direct effect of the scheme on the main tourist attractions in the town.
42. The AONB lies on the opposite side of the Axe Valley and hence the direct impact of the appeal scheme on that protected area, and the views out from it, would be small, and certainly not great enough to represent unacceptable harm to the natural beauty of the area. The Jurassic Coast part of the AONB is even further away at some 1.5 Km to the south east, where there would be no intervisibility between the appeal site and this part of the AONB. That is, the appeal scheme is not likely to harm the wider attractiveness of the countryside and protected landscape around Seaton such that the value of the area as a local tourist attraction would be damaged to any noticeable degree.

43. Concerns were expressed over the capacity of the local highways to accommodate additional traffic either in terms of width, visibility at junctions or periods of congestion. Devon County Council, the local highway authority, did not raise any overriding objections to the proposed scheme. No evidence was brought to the inquiry of technical deficiencies in the highways hereabouts in terms of design, layout or visibility or of a history of accidents or significant interruptions to the free flow of traffic which would seriously challenge the assessment of the responsible statutory consultee. Whilst, I am sure, local residents would prefer there not to be any additional traffic, no technical evidence has been put forward to demonstrate that the proposed scheme would introduce an enhanced likelihood of serious accidents or unacceptable interruptions to the free flow of traffic on the local highway network.
44. I acknowledge that there is only a local convenience store close to the appeal scheme, and that new residents would have to travel to Seaton town centre, or further afield, for much of their day-to-day shopping requirements. However, this would probably be so for almost any urban expansion on the peripheries of Seaton. Indeed, additional local population could well help to support the local shops that are there at present, for the wider benefit of the locality, or even lead to the establishment of expanded or new facilities nearby. Whilst travelling to more distant shops and services may not be entirely in accordance with the principles of sustainable development as discussed in The Framework, this has to be judged in the context of the prevailing circumstances locally and balanced against the other potential harms of not adequately providing for the more basic needs of society, such as enough housing.
45. It was also argued that the local health services, schools, water supply and sewerage capacity are already at capacity and would be unable to accommodate the needs of the additional population arising from the proposed scheme. The application was properly advertised at the time it was lodged with the local planning authority, and the necessary consultations were carried out with the relevant statutory consultees and service providers. None of these came back with concerns that their levels of service provision would be overwhelmed or would be unable to adapt to accommodate the increased demand. No evidence was brought to the inquiry to demonstrate what the capacity of these existing services or infrastructures might be, whether these truly are at or above capacity, or whether they were incapable of being expanded so as to be able to deal with an increased demand.
46. Where such shortfalls may be a matter for concern it is reasonable for the service providers to look for a contribution from a developer to fund the necessary adaptations or expansion. In the case of this particular appeal, contributions have been offered for improvements to local sustainable transport, but no requests have been made of the applicant by other service providers for financial contributions to health, education or water services or drainage infrastructure. In view of this, I can only come to the view that the proposed scheme would not unacceptably raise demand for local services or infrastructure provision.

Would any adverse impacts significantly and demonstrably outweigh the benefits

47. Paragraph 14 of the Framework indicates that where a relevant policy is out of date planning permission should be granted unless any adverse effects would significantly and demonstrably outweigh the benefits when assessed against the Framework as a whole.
48. This proposed development has to be assessed against a number of development plan policies, not all of which can be regarded as out of date. The policies which are not out of date are those relating to nature conservation (EN5 and EN6) and which seek to protect wildlife and for the provision of affordable housing (H4). I have come to the conclusion that the proposed scheme does not conflict with the terms or objectives of those policies.
49. It is accepted by the Council that the shortfall in housing land supply does not meet the expectations set out at paragraph 47 of The Framework and hence the policies relating to the supply (or restraint) of land for housing development in the EDLP cannot be regarded as up-to-date. This considerably reduces any weight which could be attached to these policies in the Local Plan and, by extension, locations on the Proposals Map which allocated sites or identified protected areas (such as the Built-up Area Boundaries under Policies S2 and S3 and generalised countryside protection under Policy S5), which seek to confine or restrain housing development *per se*. That is, places on the edges of existing settlements that might reasonably be regarded as the next logical locations to accommodate further growth cannot be disregarded unless there are other considerations which outweigh the need to facilitate the underlying imperative of The Framework to support sustainable growth. I acknowledge that these local plan policies are being up-dated and are carried through into the emerging East Devon Local Plan 2006-2026 with the endorsement of local Members, but that plan is still going through the adoption process and those draft policies can be given only limited weight at this stage.
50. The question remains as to whether the Green Wedge policy (S6) should also be regarded as out of date and should no longer be seen as a restraint on development. As discussed above, the Green Wedge policy embodies an underlying strategic purpose which has been supported through the adoption process of the (now revoked) Devon Structure Plan and the current EDLP. That policy has been "saved" by the Secretary of State. The question to consider at this point is whether the strategic purpose is still relevant, taking into account that it is proposed to carry it forward into the emerging local plan.
51. It was argued that the Green Wedge policy is akin to a Green Belt policy and it should be accorded similar weight in this appeal. Whereas the objectives of the Green Wedge policy may be similar to the purposes of a Green Belt, I do not consider that this means the policy has to be given the same status, or the area set out on the Proposals Map the same level of protection, conveyed by The Framework for Green Belt areas. That is, irrespective of what may have been said in the DCLG letters of 4 January 2013 and 3 April 2013⁴

⁴ Document INQ.14

nothing in The Framework indicates that a Green Wedge policy is the equivalent to, or has equal weight as, Green Belt policy.

52. Nevertheless the Green Wedge policy has a reasonably long-standing provenance or 'pedigree' and it should not be set aside lightly. Its purpose is to safeguard the setting of built up areas by, amongst other matters, maintaining a separation between what are presently free-standing settlements. This intention is carried through into the eEDLP. It is not just a housing or development restraint policy; it has a strategic aim which has been originally agreed by the Secretary of State, subsequently identified as a 'saved' policy, and its continuation has been democratically endorsed and maintained by the Council – albeit that the eEDLP has yet to be examined and its policies adopted. That is, there is a clear strategic objective – the purpose of which is not solely housing restraint - which has been consistently supported through the development plan process.
53. Any incursions into the Green Wedge would erode the physical separation and thereby could be seen to weaken its strategic function. I acknowledge that the Council has indicated its acceptance of the possibility some reduction in the extent of separation by the identification of sites 118B and E315 in eEDLP. However, the degree of separation between neighbouring settlements is judged not solely on physical separation or measured distance; also relevant is the extent or effectiveness of the visual break, plus a consideration of the psychological perception of when or where coalescence would occur.
54. That is, the longer-term strategic planning goals should not be compromised by an (arguably) short-term shortfall in housing land supply. The severity of the shortfall is not entirely clear. Based on current housing requirement figures (17,100), the Council argue the shortfall is only 5.19 years, which is not radically below the 5 years + 20% expectation in The Framework. The appellants contend that the shortfall is more significant with there being only 3.2 years supply based on the 'Sedgefield' expectation that historic shortfalls should be made up early, rather than spread out over a full plan period.
55. The Council also argue that the underlying housing requirement should be revised downwards to 15,000; a position which is being promoted through the eEDLP. If that is so, then the Council's view is that there is housing land supply of 6.4 years. The appellant see this as only a 4 year supply taking account of the need to make up historic shortfalls early and because some of the identified sites may not be truly deliverable within 5 years.
56. The lower housing target figures have yet to be objectively assessed through the examination of the eEDLP and there is no substantiated basis for the purposes of this appeal to accept those figures. However, neither was there detailed exploration of the appellant's assertion that not all of the sites accepted by the Council as contributing to the supply are truly deliverable. That is, whereas it is common ground that there is shortfall, the current housing land supply would seem to lay somewhere between 5.2 and 3.2 years.
57. Interested persons put forward the view that the shortfall was acute in the west of the district, and that in the vicinity of the appeal site there was a surplus of permitted sites. That may be so, but no policies have been drawn to my attention which attempt to distribute the overall housing need for the

District between different strategic housing market areas, nor have I been presented with any information which defines the boundaries or extent of such housing market areas. That is, given the current local plan policies, the housing land supply deficit has to be regarded as being district-wide and there is no policy support for arguing that one part of the District is in surplus.

58. Although there is shortfall, and this is a matter of concern in the context of The Framework's encouragement to bring forward deliverable development, this has to be balanced against The Framework's requirement that new development should also be regarded as sustainable. Paragraph 7 of The Framework identifies three mutually dependant roles of sustainable development: it has to fulfil an economic role, a social role and an environmental role. Paragraph 17 also states that one of the overarching core principles of the planning system is that it should be genuinely plan-led, as is a concern for the intrinsic character and beauty of the countryside.
59. The proposed scheme would clearly fulfil an economic role in that it would bring forward employment land. It would also fulfil a social role in that it would add to the supply of housing – both open market and affordable housing – as well as recreational provision in the form of sports pitches and the MUGA. However, as discussed under the first main issue, there are justified concerns over the environmental impact of the scheme in terms of its effect on the character and appearance of the area. I consider that this indicates that the proposed scheme cannot be regarded as fully meeting all three of The Framework's roles for sustainable development, and that the shortfall in housing land supply is not so severe as to justify overriding these concerns at this stage.
60. The housing shortfall although significant is – arguably - relatively short-term, whereas the erosion of separation between Colyford and Seaton would be permanent, and should not be acceded to lightly. The validity of carrying forward the Green Wedge policy and the extent of the area covered by it has to be properly tested before significant changes can be seen to be acceptable. Other sites are being pursued through the local plan process and will be identified to address any shortfall, and presumably in locations which are not seen to be serving arguably higher or longer-term strategic planning purposes. These were not discussed in detail at this inquiry, but it was argued that, allowing for the retention of the Green Wedge and safeguarding of the best and most versatile agricultural land, other sites can be identified to ensure a compliant housing land supply. Drawing all of these points together, on balance I come to the view that, in the circumstances discussed in this appeal, the harm to the character and appearance of the area would significantly and demonstrably outweigh the benefits of the proposed development.

Planning Conditions and Planning Obligation

61. A suite of suggested planning conditions was put forward at the inquiry which might be attached to a planning permission if the appeal were to be allowed. Whereas all of the conditions – adapted or revised as appropriate - can be seen to be reasonable and necessary, they would not overcome the harm which I have identified that would be caused to the character and appearance

of the area. That is, the suggested conditions would not make an otherwise unacceptable development acceptable.

62. As noted briefly above, a unilateral undertaking has been submitted as a planning obligation under section 106 of the Town and Country Planning Act 1990. This undertakes to construct the spine road, to provide the offered proportion of affordable housing, to bring forward the identified employment land in accordance with a phased programme of releases related to the completion of housing across the site, to provide the MUGA, an equipped play area, the sports pitches, tree planting and a travel plan (to include a sustainable transport contribution) to reduce reliance on the use of private cars. I accept that the planning obligation would meet the three tests set out at paragraph 204 of The Framework in that it is necessary to make the proposed development acceptable in planning terms, is directly related to the development and is fairly and reasonably related in scale and kind. Nevertheless, the matters included in the planning obligation do not overcome the harms which I have identified would be caused by the proposed scheme.

Overall Conclusion

63. The arguments for and against the proposed scheme are finely balanced. There is an evident shortage in the housing land supply which, having regard to paragraph 49 of The Framework, argues strongly for allowing new development. However, this has to be balanced against the view in The Framework that decisions should be made in the context of a genuinely planned procedure. A decision to permit the appeal scheme would significantly affect or undermine the effectiveness or purpose of the Green Wedge policy. On balance I consider that the housing land supply situation locally is not so acute that it represents a compelling justification to set aside the well-established Green Wedge policy. A change of this kind should only be taken once the policy has been formally reviewed through examination.
64. My considerations have taken into account other appeal decisions which have been drawn to my attention where a housing land supply shortfall has justified planning permission, but I am not persuaded that those cases correspond exactly with the circumstances of this appeal such that they represent binding precedents and hence I have not referred to them directly in this decision. In any event, it is well-established principle that every planning proposal should be considered on its own merits. In the light of the evidence presented at this inquiry I come to conclusion that overall, until such time as the Green Wedge policy has been either confirmed or revised through the local plan examination procedure, the harm to the character and appearance of the area would outweigh benefits of the proposed scheme. Accordingly, the appeal should be dismissed.

Geoffrey Hill

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr H Gordon Lennox Principal Solicitor, East Devon District Council

He called

Mr William Robert John Gill BSc MRICS Valuation Officer, District Valuer Services

Dr Fiona Mathews BA MA DPhil MCIEEM Senior Lecturer, University of Exeter

Mr Gavin Spiller BA(Hons) MA MRTPI Principal Planning Officer

FOR THE APPELLANT:

Mr Paul Cairnes, of Counsel instructed by Atkins Ltd., The Hub, 500 Aztec West, Almondsbury, Bristol

He called:

Mr Martin Byrne BA(Hons) PGDipLA MLI Landscape Architect, Atkins Ltd.

Mr Matthew Bowell BSc MSc CEnv Principal Consultant Ecologist, Atkins Ltd.
MCIEEM, BES

Mr Andrew Jones BA(Hons) DipTP MRTPI Principal Planner, Atkins Ltd.

FOR THE COLYFORD GREEN WEDGE COMMUNITY ACTION GROUP:

Mr Anthony Padfield BA(Hons) MRTPI Principal: Anthony Padfield Town Planning Consultancy

INTERESTED PERSONS:

Mr Howard West Colyton Parish Council and Mayor of Ancient Borough of Colyford

Mr John Bennett Local resident

Mr Ian Priestley Local resident

Mr John Meakin Seaton Town Council

Mr Tony Smith Local resident

Mr John Ramsay Local resident

Mr Robin Pocock Local resident

Mrs Diana Nason Local resident

Mrs Julie Girling Local resident

Mrs Judith Richards Local resident

Mr Peter Mason Local resident

Mr Adrian Bayley	Local resident
Mr Andrew Parr	Local resident
Mrs Heather Sanhan	Local resident
Mr Stephen Tribe	Local resident
Mrs Bonte Pocock	Local resident
Miss Mary Gay Bremridge	Local resident

DOCUMENTS

Proofs of evidence / appendices to proofs of evidence

Document EDDC 1.	Mr Gill's proof of evidence, including appendices
Document EDDC 2.	Dr Mathews' proof of evidence, including appendices
Document EDDC 3.	Mr Spiller's proof of evidence, including appendices
Document SP(D) 1.	Volume 1 of appendices to Mr Bowell's proof of evidence
Document SP(D) 2.	Volume 2 of appendices to Mr Bowell's proof of evidence
Document SP(D) 3.	Appendices A-C to Mr Byrnes' proof of evidence
Document SP(D) 4.	Volume of appendices to Mr Jones' proof of evidence
Document SCGW1	Proof of evidence with appendix of Mr Padfield

Documents submitted during the course of the inquiry:

Document INQ 1.	Officer report for Application 13/1583/V106, put in by Mr Jones
Document INQ 2.	Up-dated housing land supply figures, put in by Mr Jones
Document INQ 3.	Extract from National Planning Practice Guidance on making planning decisions, put in by Mr Jones
Document INQ 4.	English Nature Report No.495 <i>Radio tracking study of greater horseshoe bats at Caen Valley Bats SSSI 2002</i> , put in by Mr Bowell
Document INQ 5.	e-mail relating to availability of grant funding for affordable housing, put in by Mr Jones
Document INQ 6.	Urban Inset Map 46 from East Devon Local Plan 2006, put in by Mr Jones
Document INQ 7.	Urban Inset & Town Centre Map from draft East Devon Local Plan 2012, put in by Mr Jones
Document INQ 8.	Appeal Decision APP/A0665/A/13/2196893 (Farndon, Cheshire), put in by Mr Jones
Document INQ 9.	Aerial photograph of land between Seaton and Colyford put in by Mr Jones showing Built Up Area Boundaries and Green Wedge annotations
Document INQ 10.	Minutes of EDDC Development Management Committee Meeting 20 August 2013, put in by Mr Jones

- Document INQ 11. ONS Population and Economic Activity statistics 2011 for Seaton Parish, put in by Mr Jones
- Document INQ 12. English Nature *Bat migration guidelines*, put in by Mr Bowell
- Document INQ 13. EDLP Policy LSE2, put in by Mr Jones
- Document INQ 14. Copies of letters sent to Mrs Nason by DCLG 4 January 2013 and 3 April 2013, put in by Mrs Nason
- Document INQ 15. Revised list of suggested conditions, put in by Mr Spiller
- Document INQ 16. Written submissions put in by Mr Howard West
- Document INQ 17. Written submission put in by Mr John Bennett
- Document INQ 18. Written submission put in by Mr Ian Priestley
- Document INQ 19. Written submission put in by Mr John Meakin – Seaton Town Council
- Document INQ 20. Written submission put in by Mr Tony Smith
- Document INQ 21. Written submission put in by Mr John Ramsay
- Document INQ 22. Written submissions (2) put in by Mrs Judith Richards
- i) Re. visual impact + DVD
 - ii) Re. Section 106 obligation
- Document INQ 23. Written submissions (2) put in by Mr Peter Mason
- i) Re. multiple concerns
 - ii) Brochure on history of Colyford Borough
- Document INQ 24. Written submission put in by Mr Adrian Bayley BSc DipEd MCIEEM
- Document INQ 25. Written submission put in by Ms Heather Sanham
- Document INQ 26. Written submission put in by Miss Gay Bremridge
- Document INQ 27. Written submission put in by Mr Stephen Tribe
- Document INQ 28. Written submission put in on behalf of Mrs Y Ishida-Bax

PLANS

Application Plans

	<i>Drawing No.</i>	<i>Subject/ Description</i>
Plan A.1	SK101 Rev P2	Site Location Plan
Plan A.2	SK102 Rev P8	Indicative Master Plan
Plan A.3	SK103 Rev P3	Development Zones