

THE KNOWLE: APPLICATION REF. 12/1847/MOUT

Summary of objection:

- The application is not in accordance with the Development Plan and is considered to be contrary to guidance in the National Planning Policy Framework and Policies S2, S4, RE1, H2, H4, E3, EN6, TA1 and TA7 of the East Devon Local Plan. (See Sections 2 and 3 below)
- There are not sufficient material considerations in favour of the development so as to outweigh the provisions of the Development Plan.
- The Economic Impact Assessment is fundamentally flawed. (See Section 4 below)
- The Transport Assessment is incomplete. (See Section 4 below)
- There has been no Environmental Impact Assessment undertaken. (See Section 5 below)
- The requirements of the Habitats Directive have not been taken into account. (See Section 5 below)

As this application contravenes planning policy, guidance and law and fails to satisfy the requirements of the Environmental Impact Assessment Regulations 2011 and the Conservation of Habitats and Species Regulations 2012, outline planning permission should be refused on the whole application.

1. Introduction.

1.1 The Town and Country Planning Act 1990 and the Planning and Compulsory Purchase Act 2004 require that planning applications be determined in accordance with the statutory Development Plan (DP) unless material considerations indicate otherwise. For the purposes of this current application the DP comprises the East Devon Local Plan 2006-2011(LP), The Devon Structure Plan 2001-2016 (SP) and Regional Planning Guidance for the South West 2001 – RPG 10.

1.2 The recently adopted National Planning Policy Framework (NPPF) is a material consideration. The emerging Local Plan is still at a relatively early stage and should be afforded little, if any, weight as a material consideration.

1.3 EDDC regard the present application as a Departure from the statutory DP. **As a consequence planning permission can only be granted in circumstances where there are sufficient material considerations in favour of the proposed development so as to outweigh the provisions of the DP.**

2. Development Plan Policies

Local Plan Policies:

S2 (Built Up Area Boundaries for Area Centres and Local Centres)

2.1.LP Policy S2 identifies Sidmouth as an Area Centre, which provides a focus for development to meet local needs. To date there is no evidence to support EDDC's contention that there is a local need for the scale and mix of housing development proposed nor a local need for the provision of a 60 bed Graduated Care Home.

Absent such evidence, the proposed development is non-compliant with the requirements of Policy S2.

S4 (Development within Built-Up Area Boundaries)

2.2 LP Policy S4 permits development within Built-Up Area Boundaries if; the development is compatible with the character of the site and its surroundings; it would not damage wildlife, landscape, townscape or historic interests; it would not involve the loss of land of local amenity importance or of recreational value; it would not impair highway safety or traffic flows. In addition, the supporting text advises that proposals will be considered taking into account compatibility with LP policy.

2.3. There are significant questions as to the proposed development's compatibility with the surroundings of the site, in terms of the scale of the proposed development. The new buildings will dominate the recreational areas, and be highly visible from them. There is insufficient survey evidence to conclude that wildlife will not be damaged, recreational land will be lost and there are a number of issues relating to highway safety.

Consequently, the requirements of LP Policy S4 are not met.

RE1 (Retention of Land for Sport and Recreation)

2.4 EDDC accept that the proposed development will involve the loss land identified in the LP as Public Open Space (POS) –The parkland at the Knowle is designated as "land for Sport and Recreation" in the LP. Para 13.121 includes the following" the Town has an overall undersupply of formal recreation land"...No attempt has been made by EDDC to provide alternative land.

2.5 The Planning Support Statement, (2.28) states that "even with a slight reduction in Open Space at the Knowle there will still be an ample supply of open space in Sidmouth". The reduction in Open Space at the site is some 1.1 ha and is considerable, particularly since the Open Space is the only one available in the western part of the town. It is calculated that the proposed development will entail the loss of about 60% of the land set out as formal gardens and 30% of the land currently designated as parkland. There is no supporting evidence for the conclusion drawn by Bell Cornwell, and the reduction of Open Space is significant.

Consequently the requirements of LP policy RE1 are not met.

H2 (Residential Land Allocation)

2.6 The development site is identified as Employment Land and Public Open Space in the LP and is not identified as residential land. Whereas some limited areas of the proposed site, such as the car parks and existing buildings, may be regarded as brownfield, POS cannot be regarded as such, and is more properly defined as a greenfield site within an urban area.

Thus policy H2 is contravened.

H4 (Affordable Housing)

2.7 LP Policy H4 requires a minimum of 40% affordable housing in any development of this scale. Whilst it is accepted that there is a need for affordable housing in Sidmouth, in the light of the Government's recent announcement that this provision will be suspended where such provision is unviable it is highly likely that this element of the proposal will not be forthcoming. If Affordable housing were to be provided such housing should be reserved for key workers and people employed locally and not as second homes.

No viability or deliverability study has been undertaken by EDDC in support of this application, and what may have been perceived as a material consideration in support of this development can no longer be regarded as such.

Policy H4 has not therefore been satisfied.

E3 (Retention of Employment Land)

2.8 LP Policy E3 seeks to protect against the loss of land in existing employment use. The criteria for exemption from this protective policy have not been met in the case of this application. In particular EDDC has not demonstrated that they have explored options for the retention of the site nor is there a clear demonstration of surplus supply of Employment Land in the town. The fact that the draft Local Plan 2011-2026 proposes to allocate 5 ha of additional Employment Land because of a supposed deficiency in Employment Land provision in Sidmouth would appear to suggest that EDDC is satisfied that there is a shortfall in Employment Land provision in the area. The financial needs of the District Council in relocation are not a material planning consideration in this context.

The Plan therefore contravenes Policy E3

EN6 (Wildlife Habitats and Features)

2.9 As set out in S.5 below, the Ecological Survey submitted by EDDC in support of the application shows that the site is extremely important for roosting bats, and can therefore be regarded as providing an important wildlife habitat. The limited nature

of the surveys undertaken to date provide no confidence that this habitat will neither be lost nor significantly damaged, and consequently there is a risk that the protection afforded to the site by Policy EN6 will be prejudiced.

TA1 (Accessibility of New Development)

2.10 LP Policy TR1 requires new development to be located so as to be accessible by pedestrians, cyclists and public transport, with the overarching policy requirement of minimising the need to travel by car. The new development is centrally located, thus enabling it to be accessed; however there are no convenient or safe bus-stops in its immediate vicinity.

TA7 (Adequacy of Road Network and Site Access)

2.11 Northern junction of Station Road, Broadway and Council Offices Drive. This junction will have less traffic at peak hours, but needs to be designed to enable safe vehicle access

2.12 At the southern end, the development does not satisfy the requirements of Policy TA7 because of the poor access conditions with Knowle Drive, and the access of Zone E at this point. Knowle Drive is a single carriageway road to the existing houses, with poor visibility substandard bends and no pedestrian facilities.

Devon Structure Plan

2.13 As the Highway Authority for the area, Devon County Council will be consulted on the traffic and transport issues related to the proposed development. A Transport Assessment (TA) has been submitted in support of the application, comments are set out below.

3. National Planning Policy Framework (NPPF)

3.1 Paragraph 11 of the NPPF reiterates the requirement that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. We submit that the proposed development is not in accordance with the DP (accepted by EDDC), and that there are no material considerations sufficient to outweigh that requirement.

3.2 Para 17 sets out 12 core land-use planning principles. Amongst these are;

- Being plan led, "...empowering local people to shape their surroundings",
- Contribute to conserving and enhancing the natural environment
- Conserve heritage assets
- Make the fullest use of sustainable transport

3.3 Para 74 states that existing open space, sports and recreational buildings and land should not be built on unless:

- An assessment has been undertaken which has clearly shown the open spaces, buildings or land to be surplus to requirements; or
- The loss resulting from the proposed development would be replaced by equivalent or better provision.

The proposed development fails to meet either of these criteria.

3.4 Para 118 advises that planning authorities should aim to conserve and enhance biodiversity by refusing planning permission if significant harm will result from a development which cannot be adequately mitigated or compensated for. Furthermore, planning permission should be refused for development which results in the loss or deterioration of irreplaceable habitats (including the loss of aged or veteran trees) unless the need for and benefits of development outweigh the loss. See comments on European Protected Species (EPS) below.

3.5 Para 123 states that planning decisions should aim to identify and protect areas of tranquillity which have remained largely undisturbed by noise and are prized for their recreational and amenity value for this reason.

3.6 In the context of conserving and enhancing the historic environment, para 128 requires an applicant to describe the significance of any heritage assets affected by a proposed development. See also paras 129, and 131.

4. Documents submitted in support of the application

Planning Support Statement, (PSS) – Bell Cornwell Planners Aug 1012.

4.1 Para 1.5 of the PPS states that the site is composed primarily of Brownfield land which equates to the footprint of the existing council offices and car parks plus a small proportion of land designated as Recreational Land. This is inaccurate.

The existing layout comprises a total area of 5.4Ha of which 13% is existing building, 10% is hard Car parking, 7% is the EDDC Horticultural depot, (of which 50% is agricultural), and 1% Green car parking. Thus 31% is Brownfield, (even allowing for the green car park and the horticultural area as “Brownfield”), and 69% is Recreational Land

The Development proposes, (Zones A to E), 2.74 Ha of housing, which is 51% of the total area, leaving 2.66 Ha ,(49%), as Recreational Land. Most of this loss of 1.07 Ha is in the Garden area, which is the most used by the public.

Thus 1.07 Ha is lost which is about 30% of the current Recreational Land. The PPS is wrong and misleading in describing this as a “small proportion.”

Moreover, Annex 2 of the NPPF clearly excludes parks and recreation grounds from being regarded as previously developed land.

4.2 Para 1.11 The PSS notes that no Screening Opinion had been received from EDDC at the time of the submission of the outline planning application, although an Opinion has now been produced dated 11 September 2012. The documents accompanying the planning application do not support the conclusion as stated, that there will be no significant environmental impacts. (See Section 5 below)

4.3 Para 2.27 has not demonstrated that there is a surplus of Employment land in the vicinity, and the statement that “the Council offices are no longer fit for modern office requirements and refurbishment would be too costly” is unsupported by any evidence to justify the statement that E3 is satisfied.

4.4 Para.3.28 The PSS states that the current Open Space requirement is set out in the East Devon Open Space Study of 2011, and that Sidmouth Open Space adequately complies with this. However, this study is merely advisory and has no regulatory implications for the current LP, and, furthermore, fails to address the specific impacts of the proposed loss of Open Space at The Knowle on local residents.

Design and Access Statement

4.5 Paras 1.2; 1.3; 1.31; 1.3.2 all state that the existing buildings are aging and inefficient with building and energy costs extremely high No evidence has been provided for this statement. In fact the buildings have an energy rating of “C” which is good for buildings of this age.

4.6 Para 1.3.2 States that “...a separate assessment of the full use of the Park and Ride will be submitted in September.” No such report has been submitted.

Ecological Survey – Protected Species Report – Devon Wildlife Consultants Aug 2102

4.7 See Section 5 below.

Economic Impact Assessment – Peter Brett Associates Aug 2012

4.8 A detailed critique of the Economic Impact Assessment is appended to this document at Appendix 1. In summary, The EconIA is seriously flawed. The adverse economic impacts are far greater than has been assessed. The critique concludes that:

- Impacts on employment in Sidmouth have been significantly underestimated. It is calculated that 69 jobs will be lost overall, rather than the 3 suggested by PBA.
- Impacts on spending in Sidmouth are similarly significantly underestimated. EDDC spending of £3.6m per annum has been discounted from the Assessment.
- Consultation of the public and stakeholders has been inadequate.
- The business questionnaire which was used to build the economic assessment is not fit for purpose.

Transport Assessment – Aug 2012

4.9 The Transport Assessment submitted in support of the application is incomplete in that it lacks input survey data for weekend car park use at weekends during the summer period. This data has still not been submitted and in these circumstances it is not possible to assess the likely impacts of the proposed development on traffic flows, trip assignments or modal splits.

4.10 The TA appears to be based on data from a single survey undertaken on 20 June 2012. Questions arise as to whether data from a single survey is adequate for assessment purposes, whether data obtained from such a survey is representative, whether further survey work is required, and whether any meaningful conclusions can be drawn from such data.

5. Absence of Environmental Impact Assessment.

5.1 It is noted at para 1.11 of the Planning Support Statement submitted by Bell Cornwell Planners in August 2012 that a Screening Opinion has been sought from EDDC. A Screening Opinion dated 11 September 2012 has been produced by EDDC (some weeks after receipt and registration of the planning application), which concludes that an Environmental Statement is not required.

5.2 The Screening Opinion accepts that the proposal falls within the scope of Schedule 2 of the EIA Regulations 2011 as an urban development project exceeding 0.5ha in area. A full Environmental Statement will be required, pursuant to the Regulations if it is considered that a Schedule 2 development will have significant effects on the environment by virtue of factors such as its nature, size or location.

5.3 An ES is required to include at least the information set out in Part I of Schedule 4 of the Regulations. This information includes a description of the development, a description of mitigation measures and, most relevant to the present application, the data required to identify and assess the main effects which the development is likely to have on the environment.

5.4 Pursuant to Regulation 3(4) the relevant planning authority shall not grant planning permission where the Regulations apply unless they have taken the environmental information into consideration.

5.5 The ecological evidence submitted in support of the proposal states that one of the buildings on the site (Building B) supports a large maternity roost of Lesser Horseshoe Bats. A Bat Survey Report undertaken in 2008 describes The Knowle as "...an extremely important roost site", and also noted the presence of Serotine and Pipistrelle bats on the site. Additionally, the 2012 Survey advises that further surveys are undertaken closer to demolition to ascertain when it would be appropriate for demolition work to take place.

5.6 The Ecological Survey acknowledges that, as all UK bats are European Protected Species (EPS), and subject to a system of strict protection pursuant to the Conservation of Habitats and Species Regulations 2012, a licence will be required for the demolition work proposed on Building A, and also acknowledges that Building B could be affected by such demolition work (in which case a further licence will be required).

5.7 The Ecological Survey provides no relevant information regarding the likely impact of the proposed development on bat foraging and flyways, and it is unclear at present whether there has been any survey undertaken of bat roosts in trees and the likely impact on bats of the removal of such. For example, EDDC's consultants, DWC, recommend 14 survey visits during the period April – September (DCW Survey para 5.1.5). These have not been undertaken. As a consequence the environmental information required by Part 1 of Schedule 4 of the Regulations has not been provided (the data required to identify and assess the main effects of the development), and therefore it is not possible for EDDC to reasonably conclude that the proposed development will not have significant likely effects on European Protected Species.

5.8 The Screening Opinion is further flawed in that it appears to regard the whole site as previously developed land. This is a significant error in that at present only c30% of the site can be classified as previously developed (land occupied by buildings and car parks). The proposed development will result in over 50% of the site being built upon.

5.9 It follows that were outline planning permission to be granted in the absence of a full ES and without having due regard to the requirements of the Habitats Directive (see Reg.9(5) of the Habitats Regulations 2012), both the requirements of the EIA Regulations 2011 and Conservation of Habitats Regulations 2012 would be breached.