

**Application No. 18/00175/MOUT**

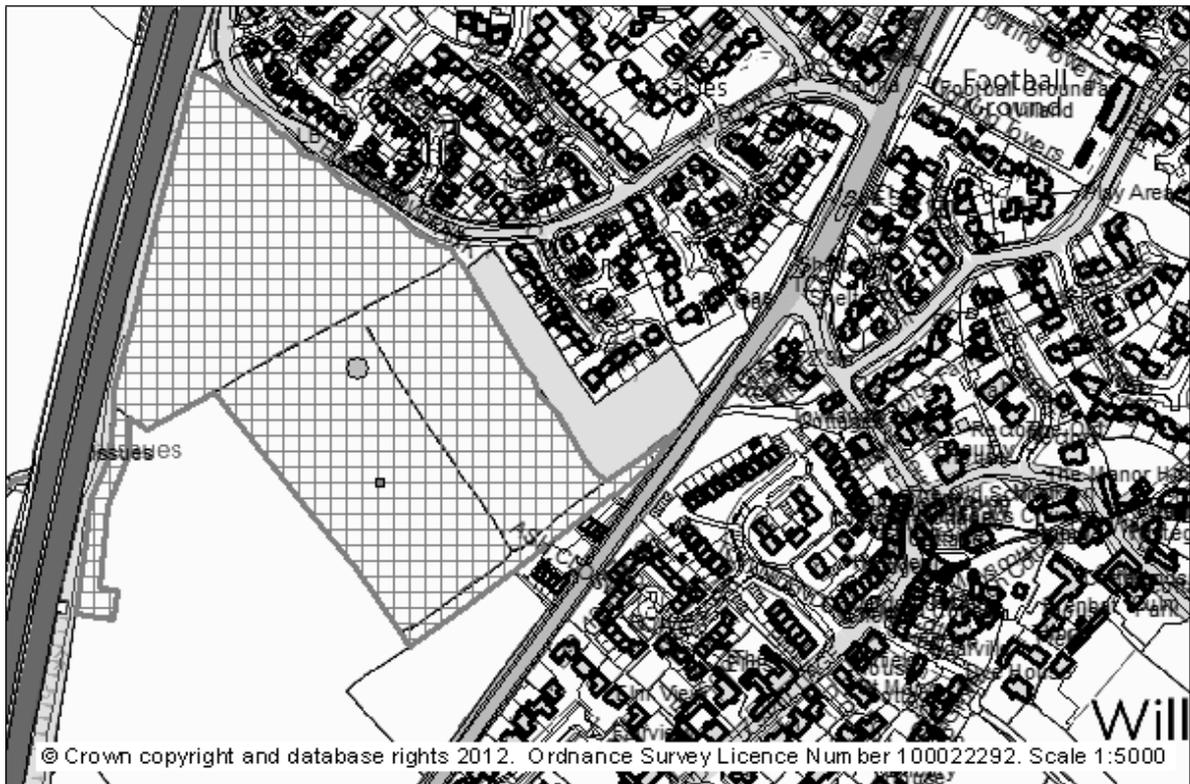
**Grid Ref:** 110467 : 303288

**Applicant:** Gallagher Estates  
Ltd, Mr M Webber &  
Ms S Albright

**Location:** Land at NGR 303288  
110467 Adj Meadow  
Park Silver Street  
Willand

**Proposal:** Outline for the  
erection of upto 125  
dwellings with public  
open space and  
associated  
infrastructure

**Date Valid:** 26th January 2018



**REPORT OF THE HEAD OF PLANNING AND REGENERATION**

**18/00175/MOUT - OUTLINE FOR THE ERECTION OF UPTO 125 DWELLINGS WITH PUBLIC OPEN SPACE AND ASSOCIATED INFRASTRUCTURE - LAND AT NGR 303288 110467 ADJ MEADOW PARK SILVER STREET WILLAND**

**Reason for Report:**

At the Planning Committee meeting on 5<sup>th</sup> September, Members advised that they were minded to refuse the above application and invited an implications report for further consideration.

**RECOMMENDATION(S)**

Subject to the prior signing of a s106 obligation to secure:

- a) 35% affordable housing (tenure mix, size mix and other details to be agreed);
- b) On-site provision and maintenance of LEAP for the lifetime of the development
- c) On-site provision and maintenance of SUD's for the lifetime of the development
- d) Submission, adherence to and reporting on a Travel Plan;
- e) Public Transport (Bus) Contribution of £100,000.00 towards improvement of No.1 service (by way of increased frequency of service), to be phased at £20,000.00pa over 5 years, triggered on occupation of 25th Dwelling;
- f) £250,000 contribution towards the implementation of planning application - 50% due prior to commencement of development and 50% due prior to occupation of 10% of dwellings 17/00405/DCC to provide studio facilities at Willand Primary School
- g) £52,500 contribution towards the Willand Health and Community Centre project for the fitting out that part of the building to be used for a mixed community use to include memory café, day centre and other community uses or for an alternative community facilities project (with agreement of the LPA), should the WHCC not proceed to be paid to MDDC prior to commencement of development.
- h) £125,000 contribution for the costs of upgrading the Jubilee Field BMX/Skate Park and/or other Recreation/Teen facilities in the village to be paid to MDDC prior to commencement of development

Grant planning permission subject to conditions.

**Relationship to Corporate Plan:**

Homes

- Facilitating the housing growth that Mid Devon needs, including affordable housing

- Planning and enhancing the built environment

#### Environment

- Protect the natural environment

#### **Financial Implications:**

An appeal may require the appointment of planning consultants to assist in the defence of the reasons for refusal. The applicant may make an application for costs on any appeal against the Council and such costs claims are made by demonstrating that there has been unreasonable behaviour. That being the case, Members must be able to clearly justify each and every reason for refusal-in line with the development plan and all other material considerations.

#### **Legal Implications:**

The report identifies the risks in proceeding with an appeal based on the reasons given by the Committee on 5<sup>th</sup> September 2018 – both in terms of outcome of an appeal and the risk of a costs decision. The Council will still need to prepare draft planning conditions for the appeal and negotiate and complete a section 106 agreement. External legal representation may be required if the appeal proceeds to a public inquiry.

#### **Risk Assessment:**

If Committee decide to refuse the application for reasons that cannot be sustained at appeal there is a risk of a successful appeal costs claim against the Council for reasons of unreasonable behaviour.

#### **Consultation carried out with:**

1. Statutory Consultees

##### **1.0 BACKGROUND:**

1.1 At the meeting on 5<sup>th</sup> September, Members indicated they were minded to refuse the application and therefore wished to defer the application for consideration of an implications report to consider the following issues:

- The size and scale of the proposal and the impact on the character of the village
- The precedence set by previous inspectors decisions with regard to policies used
- The proposal conflicted with Policies COR1, COR12, DM1 and COR9
- The lack of amenity and the impact of social cohesion in the area.

As part of the debate, consideration was given to 2 recent appeal decisions for new housing in Willand which had been dismissed. Namely 259 dwellings at Silver Street ( planning ref: 16/01811/MOUT) and 30 dwellings on land NE of Rydon House ( planning ref: 17/00652/MOUT). Members are reminded that it is the comments which the Inspector makes in those decision letters which is of relevance rather than just the fact that both appeals were dismissed.

##### **2.0 FURTHER OFFICER ADVICE:**

2.1 With regards to the concerns raised by Members at their previous meeting, your officers would advise as follows:

2.2 The size and scale of the proposal and the impact on the character of the village

In the decision letter relating to the 30 dwellings on land NE of Rydon House, the Inspector was clearly of the view that the development would have a harmful impact on the character and appearance of the area. At para 13 of his decision letter he advised, '*The development would not be contained to a clustered frontage but sprawl, cutting obviously into the distinct area of open countryside...The discordant nature of this effect on what is the defined rural fringe...would be exacerbated by how the scheme would fail to relate in spatial terms to the existing settlement shape. It would appear as awkward and out of place but not as a bolt on the edge, more of a detached and self-contained estate, unrelated to Willand by any clear means.*' At para 14 he goes on to say that the development would be '*intrusive and out of place...in both character and appearance terms, having regard to the contained nature of the existing settlement and the open and undeveloped land forming its defined rural fringe.*' He concluded at para 15 that the scheme would be '*harmful to the character and appearance of the area*'

Your officers are of the view, however, that there are several material differences between the scheme for 30 dwellings on land NE of Rydon House and the application scheme for up to 125 dwellings which members must take into account in determining the current outline application:

- a) The application site is concordant with the existing settlement limit of Willand so that it would have the Meadow Park development on its northern boundary and the development of affordable housing (including Ash Close) on its eastern side. Only its southern side would be adjoining open countryside. This is distinctly different from the appeal scheme for 30 houses which the Inspector identified as '*more of a detached and self-contained estate, unrelated to Willand by any clear means* (para 13)'
- b) The application site contains within it, an area of land allocated for 42 dwellings in the Local Plan Review (Wi1). This clearly indicates that the authority consider this to be a suitable location for residential development, and that development here in principle will not adversely impact on the character and appearance in the locality to such an extent as it results in harm.
- c) The Inspector considering the appeal for 259 dwellings concluded at para 15 of his appeal decision letter that, '*The proposed development would clearly change the character of this part of the countryside and the dwellings would have some presence in the available views although this could be mitigated by the use of planning condition. Overall, I agree with the parties that there would be only minor harm to the character and appearance of the countryside.*' He concludes at para 58 that, '*There would be minor harm to the character and appearance of the countryside. However I do not consider that this would be of sufficient consequence to weigh materially against the appeal proposal.*

With this in mind, your officers do not consider that a reason for refusal in relation to almost half the number of dwellings could be successfully defended at appeal.

### 2.3 The precedence set by previous inspectors decisions with regard to policies used and The proposal conflicted with Policies COR1, COR12, COR9 of the Core Strategy and DM1 of Local Plan Part 3 (Development Management policies)

These 2 issues of concern raised by members relate to the relevance or otherwise of various development plan policies and therefore it is sensible to consider them together.

The policies set out above are those which the Council referred to in their reasons for refusal in relation to the application for 259 dwellings and were therefore considered in detail by the Inspector in his appeal decision.

Policy COR 1 sets out a series of policy measures which aim to manage growth so that it meets sustainability objectives, brings positive benefits, supports diverse community needs and provides vibrant, healthy and inclusive places for people. It includes a requirement for accessible forms of development that reduce the need to travel by car and are integrated with public transport and other sustainable modes of travel, allow for ease of movement and provide safe environments.

Policy COR 9 supports the broad objectives of policy COR 1 by seeking to co-ordinate development and transport planning to improve accessibility for the whole community, reduce car travel, encourage public transport use, cycling and walking.

Policy COR 12 states that development will be concentrated at Tiverton, Cullompton and Crediton, with a limited role for Bampton. The policy goes on to say that other settlements will have only very limited development required to meet local needs and rural regeneration. It sets out development rates for these respective places.

Policy DM1 reflects the presumption in favour of sustainable development set out in the NPPF.

In considering the policies relevant to the appeal, the Inspector also went on to state that COR17 and COR18 were also relevant to his consideration of the appeal and that he took them into account in reaching his decision. These are therefore included here for completeness.

Policy COR 17 designates a number of rural settlements as 'Villages' wherein development will be limited to minor proposals within their defined settlement limits and to allocations for: affordable housing meeting a local need; small scale employment and tourism; services and facilities serving the locality; and other very limited development which enhances community vitality or meets a local social or economic need.

Policy COR 18 seeks to strictly control development in the countryside and sets out a number of criteria against which development will be permitted in these areas. The broad objective of the policy is to enhance the character, appearance and biodiversity of the countryside by focussing growth in the market towns to reinforce their social and economic role and enhance self-sufficiency.

In determining the appeal for the 259 houses at Willand, the Inspector was clear (para 13 and 14) that the proposal was in conflict with policies COR17 and COR18 in that there was a '*vast gulf between the scale of development proposed and what the development plan envisaged for Willand in COR17*'. He also explained that the proposal was for a substantial development of market housing with only a percentage of them being affordable and that there was no evidence that this was just to meet an identified local need. He found that as the proposal didn't meet any of the criteria in COR18, it was clearly in conflict with the policy.

However, in acknowledging the conflict with these two policies, he also ( at para 51) when carrying out the 'planning balance' makes reference to both of the policies contributing to a restriction on bringing forward development in the District in line with the Framework requirement to boost significantly the supply of housing i.e. the lack of 5 yhls. With this in mind, he therefore concluded that the appeals scheme conflict with these policies was limited.

He was also clear that the scale of the development proposed would be at odds with the Councils strategy of locating the majority of new housing in and around the larger settlements in Mid Devon and therefore contrary to policy COR1 and COR12 (para 19). At para 55 he advised that in his view policies COR1, COR9 and DM1 sought to promote

sustainable forms of development and were therefore '*in general conformity with the broad sustainability objections of the NPPF*'.

It was these policies that the Inspector gave significant weight to and the appeal schemes conflict with them. His concerns centred around him not being persuaded that the proposal would make satisfactory provision for the shops and services that would be necessary to meet the growing needs of the village, resulting from such a rapid and substantial expansion. He considered that such an expansion would place additional pressure on the '*overall limited range of services and facilities in the village*'. He accepted that the development didn't need to be self-contained but he concluded that development on this scale without the corresponding range of services and facilities would '*unbalance the settlement and undermine social cohesion*'. He therefore gave significant weight to the proposals conflict with the development plan and the NPPF.

He was of the view that policies COR1, COR9 and DM1 sought to promote sustainable forms of development in general conformity with the broad sustainable development objectives of the NPPF and that the scheme was in conflict with these policies.

Therefore if members are minded to refuse on the basis that the proposal conflicts with policy, your officers advise that this could only arise from not being satisfied that the proposal would be sustainable and it is advised that only policies COR1, COR9 and DM1 should be referred to in coming to this conclusion.

In coming to any such conclusion, Members should also consider the officer advice in the section below relating to lack of amenity and impact on social cohesion.

#### 2.4 The lack of amenity and the impact of social cohesion in the area.

Throughout the determination of the current application, the applicants have sought to overcome the Inspectors concerns. Firstly, they have reduced the number of dwellings proposed by approximately half. They have also engaged with the ward members and parish council to understand what the key projects are which the village would like to see implemented with a view to increasing the range of capacity of facilities and services in the village. To this end, Members will note the s106 package which is being promoted by the developer which includes the full funding of an extension to the school. It is anticipated that this will release the village hall (which is currently used for some school purposes) to enable its further use by other community groups. The school extension will provide additional space for the school to increase the scope of the curriculum. The applicants are also proposing to make a contribution towards the Willand Health and Community Centre project at The Gables which is yet to get off the ground. This facility will include memory café, day centre and other community facilities for use by residents of the village, which will particularly assist elderly members of the community.

The applicants are also proposing to provide funding towards a BMX/skate park provision and/or other Recreation/Teen facilities for the village, which will particularly benefit teenage members of the community.

The County have requested a contribution towards increasing the frequency of the bus service which will assist in making the bus service more attractive to all residents of the village and enable residents to travel more sustainably to services and facilities in Cullompton, Exeter and Tiverton.

What the package of s106 measures doesn't do is make any kind of provision for additional shops or services such as doctors. The Inspector was clear in para 54 that in his view the proposal for 259 dwellings did not '*make satisfactory provision for the shops and*

*services that would be necessary to meet the growing needs of a village resulting from such a rapid and substantial expansion (placing) additional pressure on the overall limited range of services and facilities in the village.'*

Members may therefore consider that the lack of provision for shops and new services within this proposal remains unsatisfactory and therefore does not overcome the Inspectors concerns set out with regards to the previous application, albeit that since the appeal the Co-operative are building a convenience store at Mid Devon Business Park which has come about as a result of market forces.

### **3.0 REASONS FOR REFUSAL:**

3.1 Members are reminded that in the absence of a 5yhls, they should grant planning permission 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 (para 11). This is known as the 'titled balance'

If, having considered all the above, Members still consider that the proposal is on such a scale, without the corresponding community shops and service provision, as to result in an unbalanced settlement which would undermine social cohesion resulting in a development which is considered to be unsustainable, then consideration should be given to the following reason for refusal:

1) The development is for the erection of 125 dwellings outside the settlement limit boundaries of Willand and represents a large-scale residential proposal on a site for which there is no development of this scale planned for within either adopted or emerging policy. The Local Planning Authority consider that the proposed unplanned development would be out of scale with the size of and facilities available in the settlement of Willand to the detriment of its long-term sustainability and social cohesion of the local community. When tested against Paragraph 11 of the National Planning Policy Framework the Local Planning Authority consider that the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole as well as being contrary to Policy COR1 and COR9 of the Mid Devon Core Strategy (Local Plan Part 1) and Policy DM1 of the Mid Devon Local Plan Part 3 (Development Management Policies).

### **4.0 NOTE TO MEMBERS:**

4.1 Due to the concerns raised by Willand Parish Council at the previous meeting, a copy of their consultation response (with their formatting/highlighting/emphasis) has been attached to this report.

<b>Contact for any more information</b>	Alison Fish [ext 4266]
<b>Background Papers</b>	Application file and 2 relevant appeal decisions
<b>File Reference</b>	18/00175/MOUT
<b>Circulation of the Report</b>	Cllrs Richard Chesterton



## WILLAND PARISH COUNCIL

Clerk to Parish Council Ms K Taylor, 40 Townlands, Willand,  
Cullompton, Devon, EX15 2RS. Tel:

Email:

26 February 2018

Mrs A Fish  
Area Team Leader  
Planning & Regeneration  
Mid Devon District Council  
Phoenix House  
Tiverton  
EX16 6PP

Your ref: 18/00175/MOUT

Dear Mrs Fish

Willand Parish Council discussed this application at their meeting on 22 February and unanimously strongly object to it. The reasons and matters considered are set out in the following paragraphs.

### 1. **Status and Designation of Site under current Policy.**

1.1 In the **Core Strategy** adopted in 2007 and intended to be valid until 2026, Willand is designated as a village. In paragraph 1.10, following a table summarising housing and population growth between 1981 and 2001, it showed that Willand was third in the District for housing completions and population growth after Tiverton and Cullompton and before Crediton. It further stated that *growth in rural areas had been considerable (particularly Willand, which has virtually doubled its population in that time)*. It should be noted that few facilities had been provided for the population in that time or since. Planned facilities attached to applications were subsequently dropped and the sites used for more housing. Community Infrastructure needs in a report by Devon County Council in 1970 identified a number of community infrastructure needs, one being a Health and Community Centre, and we still do not have one. There has been an increase in employment provision.

1.2 Villages **COR 17** identifies Willand as a settlement with some local facilities and employment with access to public transport. It states that development will be limited to minor proposals within defined settlement limits. The application site is outside of the current settlement limit for the village, although on the edge, and is therefore Countryside under the Core Strategy.

1.3 **Countryside COR 18** states that development outside the settlements defined, of which Willand is one, *will be strictly controlled*. The proposed development of up to 125 houses does not fall within any of the suggested appropriate criteria for development in the countryside. The application therefore should not be approved [see later regarding five-year land supply].

1.4 The **Allocations and Infrastructure Development Plan Document** adopted in January 2011 did not allocate any land within the Willand Settlement Limit for development other than to refer to approval of potential windfall sites.

1.5 Two sites were identified outside of the settlement limit for affordable housing if a proven need was identified for housing to meet emerging local (Willand) needs; **AL/WI/1** – Willand Moor for 10 houses and **AL/WI/2** – West of B3181 35 houses.

1.6 **AL/WI/2** has had seven houses built on it and permission has recently been granted for a further 28 affordable houses to be built to complete the site although work has not yet commenced at the time of writing this response. This site is adjacent to the applicant site.

## 2. Status and Designation of Site under Local Plan Review 2013 – 2033

2.1 This plan has been submitted to an Inspector but it has yet to be approved. It is considered that it is still relevant to compare the current policies with the emerging proposed policies, particularly in relation to this application site where there is a consistent approach in policy from the current to the proposed plans.

2.2 **Villages Policy S 13** identifies Willand as a rural settlement designated as a village suitable for limited development. Development will be limited to proposals *within their defined settlement limits*. Those allocations will be for:

- a) Small scale housing, employment, tourism and leisure;**
- b) Services and facilities serving the locality; and**
- c) Other limited development which enhances community vitality or meets a local social or economic need.**

The applicant site is outside of the current settlement limit but under the plan the settlement limit is proposed to be extended to include part of this application site on which it is proposed to provide 42 houses. This is still a major development for a village under planning guidance.

2.3 Under paragraph 2.78 it states:

*“Rural areas are expected to accommodate approximately 10% of the housing requirement for Mid Devon up to 2033. 330 dwellings have been allocated and are considered available, suitable and achievable, capable of coming forward within the first 10 years of the plan.”*

These 330 houses are to be divided between the 22 settlements identified in the policy which equates to 15 dwellings per settlement. Willand has been designated to take 42 houses and therefore have been allocated 12.7% of the rural allocation when a proportionate amount would have been 4.5%. 35 houses have been approved (7 already built) under current policy **AL/WI/2**. The implications of this are dealt with later in this response.

2.4 **Countryside Policy S 14** states that: ***“Development outside the settlements defined by Policies S10-S13 will preserve and where possible enhance the character, appearance and biodiversity of the countryside while promoting sustainable diversification of the rural economy.”***

The bulk of the proposed site for this application will still be outside of the proposed new settlement limit and should benefit from the protection of this policy.

2.5 Under paragraph 1.21 of the emerging plan it states: *“The Local Plan Review replaces and supersedes the policies of the previous Local Plan that was adopted in three parts:....”*. There then follows a table showing all the proposed changes. In relation to Willand it shows:

*“AL/WI/1 - Willand, Willand Moor – Deleted: Site has not come forward since allocation. Alternative allocation within the village in Local Plan Review.”*

*“AL/WI/2 – Willand, West of B3181 – Replaced by: WI1 Land East of M5, Willand.”*

2.6 **Rural Areas.** Under paragraph 3.186 it states: *“Twenty-one housing sites are allocated in rural areas and are considered achievable in principle, corresponding to rural settlement maps that accompany this document. Most housing allocations in rural areas are expected to deliver around 20 dwellings per hectare due to the low density character of existing village development, but in some cases a higher or lower density is justified.”*

The following table then gives the following information:

*Parish/location – Willand; Policy – WI1; Site – Land east of M5; Gross Site Area (ha) – 2.9; Net Site Area (ha) – 1.74; Uncommitted Local Plan allocations – 42.*

2.7 **Policy WI1 - Land east of M5, Willand** is set out fully together with the two supporting paragraphs:

*A site of 2.9 hectares at land east of M5, Willand, is allocated for residential development subject to the following:*

- a) 42 dwellings with 30% affordable housing;*
- b) Provision of buffer zone and appropriate planting to mitigate noise from the adjacent motorway;*
- c) Mitigation of any wildlife impact including protection of trees;*
- d) Transport assessment of capacity at the junction of Silver Street and Meadow Park; and*
- e) Retention and enhancement of the public right of way.*

*3.236 The site is located to the south of Willand, adjacent to modern housing to the north and the M5 to the west. Noise from the M5 should be mitigated by a buffer zone and planting along the boundary to ensure residential amenity is not adversely affected. The site has a number of mature trees on the eastern boundary and established woodland along the north east boundary. Mitigation measures should be taken to ensure there are no adverse impacts on any of the surrounding biodiversity.*

*3.237 A Transport Assessment of the capacity of the junction of Silver Street and Meadow Park may result in a different number of dwellings from the number allocated. The current public footpath across the northern boundary of the site should be retained and enhanced.*

### **3. Lack of 5 Year Land Supply and implications of Inspector’s Appeal Findings.**

3.1 It is accepted that Mid Devon District Council does not have a 5 year current housing land supply. This has resulted in a number of speculative planning applications from developers which are contrary to existing or emerging plan policies. The developers have cited the lack of supply and therefore indicated that the relevant provisions of paragraph 14 of the NPPF should take effect.

*At the heart of the National Planning Policy Framework is a **presumption in favour of sustainable development**, which should be seen as a golden thread running through both plan-making and decision-taking.*

*For **plan-making** this means that:*

- local planning authorities should positively seek opportunities to meet the development needs of their area;*
- Local Plans should meet objectively assessed needs, with sufficient flexibility to adapt to rapid change, unless:*

— any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole;  
or

— specific policies in this Framework indicate development should be restricted.

For **decision-taking** this means: 1

●● approving development proposals that accord with the development plan without delay; and

●● where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:

— any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole;  
or

— specific policies in this Framework indicate development should be restricted.

3.2 Interpretations of the implications of this guidance are varying with respective sites and application detail. It must be recognised that Inspectors are individuals and may interpret information and circumstances differently. It should also be noted that the situation surrounding the 5 year land supply argument is evolving with Government Ministers considering new powers to deal with developers who have planning permission on sites for some 420,000+ homes which they are not building or are building at a slower rate that they were a few years ago.

3.3 The most relevant findings to this current application is the report of Planning Inspector Mr H Baugh-Jones BA(Hons) DipLA MA CMLI in relation to Appeal Decision [APP/Y1138/W/17/3172380] reference to application 16/01811/MOUT for 259 houses on this and an adjoining package of land. Whilst recognising the failure to have a 5 year land supply and the fact that the emerging local plan had not been approved he did make observations which supported the relevance of current and emerging policy and the weight he gave to them.

3.4 The comments referred to at 3.3 above are [*Underlining is that of the consultee for ease of reference*]:

(a) 4. It is common ground between the parties that the Council cannot currently demonstrate a 5 year supply of deliverable housing sites (the five-year housing land supply (HLS)) and that having regard to paragraph 49 of the National Planning Policy Framework (the Framework), the tilted balance contained within Framework Paragraph 14 therefore applies.

(b) 7. The policies that feature in the Council's reasons for refusal of the application and which are therefore relevant to the determination of this appeal are: CS COR 1 (sustainable communities); COR 9 (access); COR 12 (development focus) and DMP policy DM1 (sustainable development).

(c) 10. Although not included in the putative reasons for refusal, CS policies COR 17 and COR 18 are relevant and have been referred to by both parties. COR 17 designates a number of rural settlements as 'Villages' wherein development will be limited to minor proposals within their defined settlement limits and to allocations for: affordable housing meeting a local need; small scale employment and tourism; services and facilities serving the locality; and other very limited development which enhances community vitality or meets a local social or economic need. Policy COR 18 seeks to strictly control development in the countryside and sets out a number of criteria against which development will be permitted in these areas. The broad objective of the policy is to enhance the character, appearance and biodiversity of the countryside by focussing growth in the market towns to reinforce their social and economic role and enhance self-sufficiency. Based on all that has been put to me, I

am satisfied that these two policies are relevant to my considerations in this appeal and I have therefore taken them into account in reaching my decision.

(d) 13. In my view, it is reasonable to conclude that there is a vast gulf between the scale of development proposed and what the development plan envisages for villages such as Willand as expressed in CS policy COR 17. I therefore consider the proposal to be in conflict with this policy.

(e) 14. The proposal would provide a substantial development of market housing and although there would also be an affordable housing element, this would be as a percentage of the total number of dwellings and there is no evidence before me that it would relate to an identified local need. Accordingly, the appeal scheme would not meet any of the criteria set out in policy COR 18 and therefore conflicts with it.

(f) 16. As part of its Local Plan review, the Council has allocated land for development on part of the appeal site, which demonstrates a clear recognition that in order to meet its aspirations for housing growth, not all development can take place within the existing built confines of settlements. Given the current stage of the Plan's preparation I do not consider that its policies can be given any more than limited weight in this appeal. However, the general approach of allocating a site to accommodate a modest number of dwellings in Willand accords with the broad principles of the CS and the Framework in seeking to ensure the level of development is adequately supported by infrastructure and to support its health, social and cultural well-being.

(g) 17. The proposal would very substantially increase the size of Willand. Within the village, there are a number of dispersed services and facilities. However, taking into account the existing size of the settlement, they represent a somewhat basic and modest level of provision.

(h) 19. Although the appeal scheme proposes to contribute financially towards education and healthcare facilities in Willand, there would be no corresponding increase in the number of other services and facilities. I recognise that the existing businesses would not necessarily be harmed economically but the scale of the development would be at odds with the Council's strategy for locating the majority of new housing in and around the larger settlements in Mid Devon. For these reasons, the proposal conflicts with CS policies COR 1 and COR 12.

(i) 51. CS policies COR 17 and COR 18 are contributing to a restriction on bringing forward development in the District in line with the Framework requirement to boost significantly the supply of housing. Accordingly, the appeal scheme's conflict with these policies is limited.

(j) 53. However, the emerging Local Plan Review envisages 42 dwellings including 30% affordable housing for Willand. This is very substantially lower than both market and affordable housing growth proposed in this appeal. Even if I were to accept that the need for housing could be greater than planned for in the CS in order to reflect the Full Objectively Assessed Need for Mid Devon, I am not persuaded that a development on the scale proposed would be likely to reflect a requirement to meet identified local needs for either market or affordable housing. Furthermore, I have not been made aware of a pressing need for affordable housing in Willand such that the scale of housing proposed should override the provisions in the development plan.

(k) 54. Moreover, all of this must be considered in the wider context of creating a mixed and balanced community as promoted by the Framework. I am not persuaded that the proposal would make satisfactory provision for the shops and services that

would be necessary to meet the growing needs of a village resulting from such rapid and substantial expansion. The influx of new households on the scale proposed would place additional pressure on the overall limited range of services and facilities in the village and whilst I accept that it is not necessary for the proposed development to be self-contained, I consider it would unbalance the settlement and undermine social cohesion. I give significant weight to the appeal scheme's conflict with the development plan and the Framework in this regard. This in turn limits the weight that I give to the appeal scheme's contribution to market and affordable housing.

(l) 55. Given that the Framework seeks to promote the vitality of our main urban areas, it seems to me that this chimes with the Council's development focus as expressed in CS policy COR 12. Insofar that CS Policies COR 1, COR 9, and DMP policy DM1 also seek to promote sustainable forms of development, I consider them to be in general conformity with the broad sustainable development objectives of the Framework. I therefore give significant weight to the appeal scheme's conflict with these development plan policies.

#### **4. Current Application Detail and local Observations.**

4.1 The outline application is to build up to 125 houses on the site with public open space, landscaping and associated infrastructure. There is also a separate Full planning application in respect of the access to the dwellings from Meadow Park. It is questionable if it is practical or appropriate to deal with the access separate from the housing development as the access is relevant to the approval for the number of dwellings when the emerging plan **Policy WI1 - Land east of M5, Willand** requirements are taken into account, particularly with reference to transport assessment.

4.2.1 Under current plan policy **AL/WI/2** 35 affordable houses [7 already built] have been approved on an exception site. Under the emerging local plan that site allocation was to be replaced by a new site under emerging local plan policy for 42 dwellings - **Policy WI1 - Land east of M5, Willand** – an increase of only 7 houses. The Parish Council has been advised that the emerging local allocation will not be altered so in effect the village of Willand will be increased by 77 dwellings. The latest figures show that the latest number of households in Willand is 1,419 which includes an increase of 51 (3.7%) from the last census. This has come from windfall sites within the settlement limits and there has been little or no community infrastructure to support that increase. The increase of 77 houses amounts to a further 5.4% increase on the latest figures.

4.2.2 If the 125 are approved this will be another 83 households on top of the 42 planned. Add to that the 35 that have been approved on the exception site, Willand will expand by a further 160 households which amounts to an increase of 11.3%. It must be questioned if this is proportionate for an allocation to a village under existing or emerging local plan policy or even NPPF?

4.2.3 The latest figures for affordable housing need showed that Willand has a requirement of about 40 household units over the next five years – 35 are being provided on the exception site. The proposed 42 houses would have a 30% allocation for affordable housing = 12/42. This more than caters for the foreseeable needs of Willand. The proposal from the 125 application would give a 35% = 44 allocation of affordable houses which would make a total of 79 units, well in excess of the requirements of Willand.

4.2.4 In addition to this provision would be the cumulative provision of at least another 30 units of affordable housing on land off the Uffculme Road within a mile of

the Willand boundary. There is also development of 600+ houses to the North of Cullompton which will be a mix of Market and Affordable Housing.

**4.3 Policy WI1 - Land east of M5, Willand** allocates a land area of 2.9 hectares for the provision of 42 houses. There is no mention of public open space or equipped play areas. The application site is approximately 6.4 hectares. This is an increase of 3.5 hectares = 121% over planned allocated area. Instead of 42 houses it is proposed to have up to 125 an increase of 83 = 197.6% over planned housing. If one takes the 35 affordable houses also approved on a site which was to be replaced by the 42 there is an increase of over 281% of housing than was planned for under the emerging local plan. Other than offers of contributions to education and public open space no provision is being made to enhance the social cohesion or wellbeing of the community.

## **Noise**

4.4.1 There are concerns as to noise from the M5 being above the accepted limits. Policy WI1 (b) states that there should be *“provision of buffer zone and appropriate planting to mitigate noise from the adjacent motorway.”* A noise bund and planting is proposed along the M5 boundary with planting but the number of houses proposed would not appear to permit the width of buffer zone which could be achieved with the planned 42 houses.

4.4.2 Work has been undertaken with regard to assessing potential noise on the site caused by traffic from the M5 and a detailed report submitted as part of the application. It is referred to in the **Planning Statement** where paragraph 5.82 states: *“The site has been designed to maximise the reasonable protection from an acoustic barrier along the motorway boundary, and to utilise new buildings as a screen for those further removed from the motorway.”* Enhanced glazing and ventilation is discussed for these ‘buffer properties’ but it would appear that to open a window may not be an option. Although a matter for Reserved Matters, if outline consent is approved, it is asked if this is where the ‘clusters’ of affordable housing would be?

4.4.3 Paragraph 5.85 of the **Planning Statement** states: *“In respect of noise levels in external amenity spaces, it has been concluded that noise levels in a number of gardens, particularly to the west sides of the site would fall above the usual criteria of acceptability. A 2m high fence close boarded fence to the southwest boundary and individual gardens elsewhere should ameliorate the situation to a certain degree. In some of these situations, however, it may be necessary to accept a level of noise which is marginally above the usual design guidelines. For the large majority of gardens across the site, however, the predicted noise levels will be comfortably below these criteria.”* Is it appropriate, acceptable or sustainable to allow a development which could have an adverse effect on the health and wellbeing of residents, either in their homes or on public or private amenity space through excessive noise levels?

4.4.4 The Parish Council have been advised that the timing and weather conditions present during when the measurements were taken for the report were rather favourable to the findings and more overcast weather and a different wind direction would have given higher and less favourable readings.

## **Public Open Space**

4.5.1 The concept plan can be misleading as it shows considerable green open space. This land lies low and does not drain well and holds considerable amounts of surface water. This is added to by water draining down from the B3181 into a ditch leading onto the site at the North East Corner. Unless drained properly the proposed

play area will be unusable whenever the weather is wet. This could also be a problem with other areas. Retention of hedges, drainage ponds and the motorway bund will also reduce useable space for people and so the described area of public open space is overstated. Protection measures for the hedges and trees during construction are outlined in reports with the application. If the application is approved then conditions or protection orders need to be put in place to ensure retention and protection after the completion of the site and well into the future.

4.5.2 There is no provision for any allotments. Willand has a site for allotments which has a waiting list and even with splitting the larger allotments into smaller units has not met the need. A commissioned study of public open space has shown that Willand has a shortfall of 64% for the size of population and so for this development to 'buy' provision elsewhere in the village is not an option. Contribution could be made to improving what is already there but it will not make additional space available.

4.5.3 There is a public footpath running along the Northern edge of the proposed site which is adjacent to protected woodland for part of its length. This is the only 'non-tarmac' surfaced footpath left in the village with woodland/hedge on one side and open fields on the other. Policy W11 e) *Retention and enhancement of the public right of way* is required. The suggested 10m wide path area with potentially another 10m of private amenity space before any buildings will leave room for conflict with potential trespass by persons or dogs. If the application is approved then enforceable conditions need to be in place to maintain the public footpath access as it is suggested by the developer that this site may take four years to be completed.

## **Transport**

4.6.1 Policy W11 d) Transport assessment of capacity at the junction of Silver Street and Meadow Park. A transport assessment has been carried out as a desk bound and computer model in the main. It cannot be seen that any practical account has been taken of the effect of school drop off and collection or the on-street parking during evenings or weekends. No account seems to have been taken of the on-road parking and traffic movement through the junction when Willand Rovers have home games. No account has been taken of the extra traffic past the junction on the B3181 when the M5 or other roads are closed and this is used as a diversion route. An event which seems to be happening with greater frequency.

4.6.2 The impression is given that the development will provide pedestrian access to Silver Street and Meadow Park but it already exists for the public footpath. The pavement on the B3181 approaching the Old Village junction is only 1.4m wide when the hedge is cut back properly when it needs to be widened to at least 2m to cater for increased pedestrian traffic and ensure pedestrian safety from passing traffic close to the kerb edge.

4.6.3 The DCC Highways advice is not available at the time of submission of this response and so further comment may be submitted for consideration when it is seen.

## **5. Benefits and Harm**

5.1.1 There would be economic benefits:

- (a) in the short term during construction with expenditure on jobs and materials.
- (b) £174,000 additional Council Tax revenue per annum for Mid Devon District Council;
- (c) £42,560 total New Homes Bonus payment to Mid Devon District Council over 4 years.
- (d) Increased expenditure in local business.

- (e) Monetary contributions to some local facilities.

These in the main summarise economic benefits to Devon and Mid Devon with limited benefit to Willand Village and its community.

5.1.2 The harm to the village can be identified as direct adverse impact or harm through cumulative effect.

- (a) The increased population will adversely affect the community cohesion of the village by the larger population being susceptible to isolation and difficulties in integration.
- (b) The extra pressure placed on facilities within the village:
- (i) The school will be taken over capacity and there is little room for more class rooms or expansion of the building without reducing already inadequate hall, dining and outdoor play space;
  - (ii) The pre-school is at capacity and turning children away. DCC say that capacity can be found in the private sector BUT local experience is that there is a demand on the current facility which is looking for nearby premises to expand;
  - (iii) The Church and Church Hall have no room for expansion and are at capacity;
  - (iv) The Village Hall is in demand at peak times and is having to turn away bookings from local groups;
  - (v) The Youth Club, Brownies, Cubs, Guides and Scouts all have difficulties in coping with demand;
  - (vi) The Doctors Surgery operates only part time and is small and does not conform to the latest NHS requirements;
  - (vii) On street parking and other traffic issues have an adverse effect at times and this will be added to by such a major unplanned development.

## **6. Possible Reasons to Support Refusal of Application.**

6.1 The site is outside of the settlement area of Willand and is in Countryside therefore contrary to current core strategy (CS) policy COR 18. Development outside of defined settlements should be strictly controlled.

6.2 If the settlement limit were to be extended to include the application site under CS Policy COR 17 it is a major development and not a minor proposal as covered by the policy. It is not required to meet a local affordable housing need as that has been met by recent approval of an exception site. It would not enhance the community vitality or meet any proven social or economic need.

6.3 The proposed development fails elements of CS policies COR 1 – Sustainable Communities and COR 12 – Development Focus. It would conflict with Development Management Policy (DMP) DM 1 – Sustainable Development Principles. Regardless of the proposals put forward regarding travel planning and the use of public transport people will use their cars to access the wider community and facilities and so there could be conflict with elements of CS Policy COR 9 – Access.

6.4 There are consistent similarities of policy contained in the emerging Local Plan Review 2013 – 2033. This plan may not yet attract great weight being attached to its policies but it does show a consistence of policy conformity with the NPPF. In the recent appeal report by the Inspector, in referring to current policy, in paragraph 55 he stated: *“I consider them to be in general conformity with the broad sustainable development objectives of the Framework. I therefore give significant weight to the appeal scheme’s conflict with these development plan policies.”*

6.5 Policy S 1 Sustainable Development Priorities - a) places the development focus on the three main towns. Policy S 2 Amount and Distribution of Development states that development will be concentrated on the three main towns and that the Rural Areas should contribute 786 dwellings. There are 22 designated villages and so Willand should provide 36 of these over the plan period to be proportionate. Willand in fact was allocated 42 and 35 affordable have since been approved (7 built) giving a total of 77 houses – 114% over proportionate distribution of housing commitments set out in the emerging plan.

6.6 Policy S 5 will not be met regarding Allotments or Recreation Space. Space is not available offsite to provide the policy requirements.

6.7 Policy S 8 Infrastructure. None of the utilities have provision on the site but most can be facilitated at a cost. Definitive answers are not given in respect of sewage disposal as yet.

6.8 Policy S 13 – Rural Areas designates Willand is a village suitable for limited development and has indicated that the settlement limit can be extended to take in a site for 42 houses. As 35 have already been approved on a site this new site was to replace it can be argued that the 77 houses identified more than exceeds the definition of 'limited development'.

6.9 Policy S 14 – Countryside. The larger portion of the applicant site is in what will still be Countryside and will not comply with policy.

6.10 Even if it is considered that the lack of a 5 year land supply indicates that there is no plan, or it is silent or out of date, then it is argued that the Inspector's findings as outlined in paragraph 6.4 above apply. The NPPF advises that approval should be given unless *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole*; that potential harm is outlined in paragraph 5.1.2 above.

Refusal of the application is strongly recommended. Yours

sincerely

Kate Taylor  
Clerk to Willand Parish Council

cc County Councillor R Radford  
MDDC Ward Councillors Mrs G Doe & Messrs R Chesterton & R Evans.