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**PLANNING PROOF OF EVIDENCE OF
GUY WAKEFIELD, MRTPI**

**LAND NORTH OF DROITWICH SPA,
DROITWICH**

Outline planning application for the erection of up to 102 dwellings, new vehicular and pedestrian access, and associated works. All matters reserved except for access.

November 2022

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Prepared for

Beechcroft Land Ltd and Henry Bouskell C/O Trustees of the Wimbush Droitwich Settlement.

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APPENDIX 1: PLANNING DESIGNATIONS AROUND DROITWICH

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1. QUALIFICATIONS AND EXPERIENCE

- 1.1. My name is Guy Wakefield, and I am presenting this evidence on behalf of Beechcroft Land Ltd., who is the Appellant for the proposed development.
- 1.2. I am a member of the Royal Town Planning Institute and I hold a BA honours degree in Town Planning. I am a Partner at Ridge and Partners LLP, based at their offices in Cheltenham.
- 1.3. Prior to working for Ridge and Partners LLP I was a Director at Hunter Page Planning where I started working in 2000. In 1999, I obtained brief experience within the Local Government.
- 1.4. I have obtained during that time considerable experience in dealing with a wide range of planning matters related to the delivery of residential development, amongst other varieties of development. I undertake, and am responsible for, a wider range of consultancy tasks including the preparation of site appraisals, the preparation of planning briefs, planning applications, local plan representations and representing clients at planning appeals and at Local Plan Examinations.

Declaration

- 1.5. The evidence which I have prepared and provided in this Planning Proof of Evidence is true and is given in accordance with the guidance of the Royal Town Planning Institute. I have visited the appeal site and surrounding locality. The opinions expressed are my true and professional opinions.

2. INTRODUCTION

2.1 This Planning Proof of Evidence (Proof) has been prepared on behalf of Beechcroft Land Ltd and Henry Bouskell C/O Trustees of the Wimbush Droitwich Settlement, (hereafter referred to as 'the Appellants') in support of their appeal against Wychavon District Council's failure to determine its outline planning application (reference W/22/00201/OUT) at land north of Droitwich Spa (hereafter referred to as 'the site') within the relevant statutory period.

2.2 The description of development, as contained on the planning application forms, is:

"Outline planning application for the erection of up to 102 dwellings, new vehicular and pedestrian access, and associated works. All matters reserved except for access."

2.3 The application was made in outline, with all matters reserved except for access. Regarding access, only the primary vehicular and pedestrian/cycle access is sought through the appeal.

2.4 The full details of the appeal proposal are contained in the agreed Planning SoCG as well as the Design and Access Statement which accompanied the planning application.

2.5 Since the submission of this appeal against non-determination, the Council has set out its putative reasons for refusal in its Statement of Case and Officer's delegated report. They are as follows:

1. *"The application site lies entirely outside the settlement boundary of Droitwich as defined under policy SWDP 2 of the South Worcestershire Development Plan 2016 (SWDP). The site is therefore defined as open countryside where development shall be strictly controlled. The proposed development fails to accord with the provisions of policy SWDP2 part C of the SWDP. The proposed development would go against the SWDP Development Strategy and the principles it is based upon (as set out under policy SWDP2) in that it would not safeguard or enhance the open countryside nor encourage the effective use or re-use of brownfield land. The proposal fails to take into account the latest Landscape Character Assessment and its guidelines. Development on this site would not be appropriate to, or integrate with, the character of the landscape setting and would impact adversely upon a valued landscape. Furthermore, the proposed development would result in adverse visual impacts in the local landscape, including in views from a promoted leisure walking route. The significant and demonstrable landscape and visual harm would not be outweighed by the benefits of the proposal contrary to the provisions of adopted South Worcestershire Development Plan (2016) Policies SWDP1, 2, and 25 as well as guidance contained in the National Planning Policy Framework (2021) including paragraph 174 (a). As such the proposal would not constitute sustainable development.*
2. *The character of Hampton Lovett is of linear development of period properties set within large plots surrounded by farmed land. Hampton Lovett is not a nucleated village with a central core and therefore the character of the settlement is dependent upon the retention of the rural setting along the lane. It is considered that the proposal to develop the existing farmed land with dwellings would alter the character of Hampton Lovett causing harm to the setting of the Grade I listed church of St Mary and the period properties which form*

the settlement. This represents a less than substantial harm, which is not outweighed by public benefits. The significant and demonstrable harm identified provides a clear reason for refusing the development. The proposal fails to accord with policies SWDP6, 21 & 24 of the South Worcestershire Development Plan as well as guidance contained in Section 16 of National Planning Policy Framework. As such the proposal would not constitute sustainable development.

3. *Whilst noting the applicant's willingness to enter into a Section 106 legal agreement, no secure arrangements are currently in place to secure:*

- Financial contributions towards education provision (school places);*
- Financial contributions towards off-site built leisure facilities and formal sports pitches;*
- Financial contributions towards local primary healthcare provision;*
- Financial contributions towards sustainable travel comprising expansion of local bus services and towards community transport for the elderly and disabled;*
- The provision of on-site public open space and management; and*
- The provision of on-site affordable housing.*

As such, the proposed development does not meet the objectives of sustainable development and cannot be delivered with acceptable impacts on the community and the environment. Therefore, the application is contrary to adopted South Worcestershire Development Plan Policies SWDP1, 7, 15 and SWDP 39 and guidance in the Council's Developer Contributions SPG and Affordable Housing SPG, as well as guidance contained in the National Planning Policy Framework 2021.

2.6 Following the case management conference, the main issues for consideration¹ are as follows:

- 1) The effect of the proposal on the character and appearance of the area having particular regard to the landscape. And whether the proposals would affect a "valued" landscape within the terms of paragraph 174 (a) of the National Planning Policy Framework (the Framework).
- 2) The effect of the proposal on heritage assets particularly the setting of the Grade I listed Church of St Mary and Grade II listed lych gate.
- 3) Whether the Council can demonstrate a five-year supply of housing land and the extent of any shortfall.
- 4) Whether the site would be a sustainable location for the proposed development having regard to the development plan and national policies.

2.7 At the time of writing this Proof there are several contributions being contested or queried relevant to a s106 agreement including NHS, education and off-site sports pitches and changing room contributions.

¹ As taken from paragraph 11 of the Inspector's Case Management Conference Summary Note

2.8 This proof of evidence should be read in conjunction with the following:

1. Ms Joanna Ede's Proof dealing with landscape impacts – main issue 1 above;
2. Dr Jonathan Edis' Proof dealing with heritage impacts - main issue 2 above;
3. Mr Tiley's Proof dealing with five year housing land supply (5YHLS) and other housing matters
- main issue 3 above;
4. Housing Statement of Common Ground (SoCG);
5. Landscape SoCG;
6. Heritage SoCG; and
7. Planning SoCG.

2.9 This Proof has been prepared on the basis that the Council cannot demonstrate a five year housing land supply (5YHLS). The extent of the shortfall is to be addressed by Mr Tiley, whose Proof is to be submitted later on.

2.10 I summarise the findings of the above proofs of evidence of SoCGs in order to help me to conclude on the fourth main issue above, which I do by looking at the principle of development first followed by the relevant planning balancing exercises, which includes the heritage planning balance as per paragraph 202 of the NPPF. Then, on the basis that I conclude that the less than substantial heritage harm - to be attributed 'great' weight - identified by Dr Edis, is outweighed by the public benefits of the proposals, I go on to assess the proposal against the tilted planning balance in line with Policy SWDP 1 and Paragraph 11 of the NPPF.

3. THE APPELLANTS' CASE

- 3.1 The Council has set out 3 reasons for refusal. My evidence will concentrate on the planning policy issues raised in RfR1 and RfR3.
- 3.2. RfR1 can be broken down into two issues including:
1. Principle of Development - whether the site is in an appropriate location for the proposed development having regard to the development plan and national policies.
 2. The effect of the proposal on the character and appearance of the area having particular regard to the landscape. And whether the proposals would affect a "valued" landscape within the terms of paragraph 174 (a) of the National Planning Policy Framework (the Framework).
- 3.3. The second part of RfR1, relating to the effect of the proposals on the character and appearance of the area, is dealt with in full in the separate Landscape PoE prepared by Ms Joanna Ede.
- 3.4. I have also briefly considered the appeal proposals against the emerging SWDP Review.

Issue 1 - Whether the site would be in an appropriate location for the proposed development having regard to the development plan and national policies (RfR1)

- 3.5. In line with Section 38(6) of the Planning and Compulsory Purchase Act 2004, planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. This is also echoed at Policy SWDP 1, Part B.
- 3.6. Policy SWDP 2 provides the development strategy for South Worcestershire. It is a matter of common ground that the proposal conflicts with Policy SWDP 2 by virtue of the site's location outside the settlement boundary for Droitwich. However, it is also my opinion that, whilst the proposal conflicts with SWDP 2, the extent of conflict is reduced for several reasons, as detailed below. It is also relevant to consider the impact of what weight to attribute to Policy SWDP 2 having regard to the Council's 5YHLS, which I do later in the Planning Balance section of this Proof.
- 3.7. Policy SWDP 2 contains ten parts made up of principles (Part A) and objectives (Parts B-J). Those parts which are relevant to the appeal proposal are summarised below and are then assessed further below.

- Part A refers to the principles (i.-vi.) upon which the development strategy is based.
- Part B sets out that windfall development proposals will be assessed against the settlement hierarchy and details that hierarchy at Table 2.
- Part C defines 'open countryside' in planning policy terms and lists exceptions to development in the countryside.
- Part F refers to scale and type of development, location, infrastructure, and landscape character (referring to Policy SWDP 25).

- 3.8. Part A(ii) of Policy SWDP 2 specifically states, *'Provide for and facilitate the delivery of sufficient housing to meet objectively assessed needs to 2030'*. The appeal proposal supports this principle. Indeed, when considering this principle, it is relevant to have regard to Policy SWDP 3 which deals with (amongst other things) housing provision and refers to the need to maintain a 'rolling 5 year supply of housing land'. The proposals therefore help support the relevant principle and objective of delivering sufficient housing as set out in the SWDP but which the Council is currently failing to do. Overall, the appeal proposal is supported by Policy SWDP 2 A(ii).
- 3.9. Part A(vi) identifies that the plan will *'Focus most development on urban areas where both housing needs and accessibility to lower-cost public services are greatest'*. The settlement hierarchy at Table 2 defines 'urban areas', which comprise, in order of preference, 'city', 'main towns' and 'other towns'. The appeal site is in very close proximity to Droitwich Spa which is identified as a "Main Town" and the largest settlement in Wychavon district at para 29 of the SWDP. It also states that Droitwich Spa *"has the highest natural increase in population and the greatest housing needs in Wychavon."*
- 3.10. In addition, para 2 of the policy's 'Reasoned Justification' says *"The urban areas, in particular Worcester and the main towns, have the greatest housing needs and are locations where the cost of public service delivery is relatively low."*
- 3.11. Development of the appeal site, on the edge of one of the main towns in the district, is therefore also supported by Part A(vi) of Policy SWDP 2. As such, the appeal proposal is considered to be in general accordance with the spatial strategy of the development plan insofar as the distribution of development is concerned.
- 3.12. The following parts of Policy SWDP 2 seek to restrict or influence the location of new development.
- a. **Part A (iii)** - seeks to *'safeguard and (wherever possible) enhance the open countryside'* as a principle.
 - b. **Part B** - sets out that windfall development proposals will be assessed against the settlement hierarchy and details that hierarchy at Table 2. Droitwich Spa is classed as a "Main Town" alongside Evesham and Malvern, which are ranked second in the settlement

hierarchy for South Worcestershire. Part B states that housing development will be delivered within the defined development boundaries, or on site allocations or infill plots.

- c. **Part C** – highlights that any land beyond the settlement boundary is open countryside. It states that in the open countryside development will be strictly controlled to certain types of development, which does not include open market housing.
- d. **Part F** - *'development proposals should be of an appropriate scale and type with regard to the size of the settlement, local landscape character (see SWDP 25), location and the availability of infrastructure.'*

3.13. I acknowledge that the proposal conflicts with Part C of Policy SWDP 2 and that part of Part B which also refers to development boundaries, given the appeal site's location outside this boundary (and the proposal not meeting any of the exceptions identified).

3.14. Part A (vi) and the reference to landscape character in Part F needs to be read alongside Policy SWDP 25 which deals with landscape impact. I deal with this issue later but, in summary, Ms Ede concludes the proposal will result in a limited adverse impact on the landscape and a limited degree of conflict with Policy SWDP 25.

3.15. Dealing with the rest of Part F, the proposal is considered to be of an appropriate scale and type of development having regard to the size of the settlement, its location relative to Droitwich (please refer to my comment under Part A(vi) (paragraph 3.11) above) as a whole and accessibility to shops and services within Droitwich by sustainable modes of transport, and the availability and impact on infrastructure.

3.16. It is therefore concluded that the proposal is contrary to some elements of Policy SWDP 2 but supported by others.

3.17. Taking all the above into account, the proposal conflicts with Policy SWDP 2 as a whole, which is a matter of common ground between both parties, principally because of the site's location outside the development boundary. However, it is my opinion the appeal proposal would not be significantly at odds with the adopted development strategy because:

- The proposal is of an appropriate scale and type relative to its proximity to Droitwich where growth is encouraged. To highlight this point the adopted SWDP allocates 1,731 dwellings in Droitwich Spa (this includes two urban extensions and other smaller residential allocations), and 962 dwellings are proposed to be allocated in the review of the SWDP. Indeed, it is a 'Main Town' within the district and therefore sits at the top of the hierarchy for the delivery of housing in Wychavon district.

- In landscape impact terms, the proposal will give rise to a limited, not significant, adverse effect. And indeed, when considering landscape effects, it is relevant that the Council is heavily reliant on greenfield sites to meet its current and emerging housing targets.
- The site is in a sustainable location in terms of accessibility, as recognised by Inspector Hill in the previous appeal decision [CD7.1].
- The proposal would help provide for and facilitate the delivery of housing to meet objectively assessed needs to 2030. This is particularly noteworthy given that the district is currently failing to meet its housing targets (a requirement which is referenced in SWDP 3).

3.18. Therefore, whilst it is accepted that the proposal conflicts with SWDP 2, (which must weigh against the proposals in the planning balance), it is my opinion that the extent of conflict is reduced on account of the above points. Further, it is also relevant to consider the impact of the weight to be attributed to the policy having regard to the Council's 5YHLS position (as detailed in Mr Tiley's Proof), which I consider further in the Planning Balance section later in this Proof.

3.19. I also note that Policy SWDP 1 does not preclude development outside of development boundaries given it includes the tilted planning balance as contained within Paragraph 11d) of the NPPF which allows for development in situations where the Council's development plan is out of date and that there are benefits that significantly and demonstrably outweigh any adverse harm caused by the proposals. As the Council cannot demonstrate a 5YHLS, the Planning Balance section of my Proof demonstrates the proposals should be permitted in line with the tilted planning balance², therefore concluding the proposals comply with the development plan when read as a whole, in line with Policy SWDP 1 D.

Issue 2 - The extent of any landscape related harm and therefore whether the proposal is contrary to Policy SWDP25 and SWDP 2 f), and whether the appeal site constitutes a valued landscape (RfR1)

3.20. Ms Ede's Proof identifies that RfR1 has four parts to it which are of relevance to landscape and visual matters.

3.21. Firstly, the Council's SoC and RfR1 identify conflict with Policy SWDP 25 and SWDP 2 F.

3.22. Ms Ede's evidence identifies that Part A of Policy SWDP 25 sets out three criteria (i-iii.) which development proposals and associated landscape schemes must demonstrate accordance with. Ms Ede's evidence concludes that the appeal proposal would not conflict with criterion i) and iii) of SWDP 25 A).

² After having undertaken the heritage planning balance set out in paragraph 202 of the NPPF

- 3.23. She acknowledges that the proposals would result in some limited landscape effects and that there would therefore be some conflict with SWDP 25 A ii). Finally, Ms Ede also concludes that the appeal proposal accords with Part B of policy SWDP 25 which requires an LVIA to be undertaken for all major development. Given the planning application was submitted with an LVIA this part of the policy is, therefore, clearly complied with.
- 3.24. Thirdly, the Council alleges that the proposals 'would impact adversely upon a valued landscape.' However, Ms Ede's Proof identifies that the appeal site does not meet the criteria set out in the Landscape Institute technical guidance note for identifying valued landscapes and should not, therefore, be afforded special protection under part a) of paragraph 174 of the NPPF.
- 3.25. Finally, the Council alleges that '*the proposed development would result in adverse visual impacts in the local landscape, including in views from a promoted leisure walking route*'. Ms Ede's evidence accepts that there would be some adverse visual impacts arising from visibility of the new built development, including in views from the Monarch's Way promoted walking group. However, Ms Ede considers that the level of impact would be low, and the weight afforded to it should therefore be moderated accordingly, as Ms Ede identifies in relation to landscape impacts as well as for the additional reasons identified in her Proof. When considering landscape impacts, it also needs to be factored in that the Council is heavily reliant on greenfield sites to meet its housing target.
- 3.26. In addition, considering the above and for the reasons I describe in Section 5 of this Proof, namely the Council's failure to demonstrate a 5YHLS, I consider that the weight to be accorded to conflict with Policy SWDP 25 and SWDP 2 F should be reduced accordingly.

Issue 3 - The effect of the proposal on heritage assets particularly the setting of the Grade I listed Church of St Mary and associated Grade II listed Lych Gate (RfR 2)

- 3.27. RfR2 references conflict with policies SWDP 6, 21 and 24 of the SWDP.
- 3.28. Dr Edis concludes that the appeal proposal will change part of the pasture south of The Forest into housing, thereby affecting the setting of the Grade I listed Church of St Mary and the setting of a Grade II listed lych gate. This effect will take place within the rural surroundings of the heritage assets, which have been subject to considerable change and adaptation.
- 3.29. Dr Edis concludes that a low level of harm will be caused to that rural setting, which will have a consequential effect on the significance of the two heritage assets. He further concludes that the category of harm will be less than substantial, within the meaning set out in paragraph 202 of the NPPF, and the extent of that harm (to significance) will be low on the scale shown in the table in

Appendix 1 of his Proof. Even within the “low” band of harm in that scale, the effect would tend towards the bottom, rather than the top.

3.30. It must be noted that Paragraph 202 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. In doing so, and whilst I attribute such harm “great” weight, it is my opinion that the public benefits of the proposal, as set out below, outweigh the less than substantial harm identified to the heritage assets.

3.31. As such, I consider that the less than substantial harm to heritage assets does not give rise to a clear reason for refusal as set out in footnote 7 of the NPPF, and therefore paragraph 11dii of the NPPF remains engaged, as explained further in Section 6 of this Proof.

3.32. I acknowledge that because of the above conclusion, there would be some conflict with Policies SWDP 6 and SWDP 21, noting that Policy SWDP 6 A) states that proposals should conserve and enhance heritage assets. Similarly, SWDP 21 A) looks for proposals to conserve, and where appropriate, enhance cultural and heritage assets and their settings.

3.33. However, I do not agree that the proposal would result in conflict with Policy SWDP 24. The policy title is “Management of the Historic Environment”, and I would firstly note that Parts C to D of the Policy are not relevant to the appeal proposals, given that they relate to direct changes and adaptations to historic buildings. Parts A and B are, however, of relevance.

3.34. Part A states:

“Development proposals affecting heritage assets will be considered in accordance with the Framework, relevant legislation and published national and local guidance.”

3.35. My reading of that above is that conflict with Policy SWDP 24 is therefore determined by applying paragraph 202 of the NPPF. As Dr Edis has identified in his Proof, the Framework does not provide an absolute bar to harm to heritage assets. Rather, it invites a decision maker to balance this harm against the public benefits, applying the balance within paragraph 202 of the NPPF. Policy 24 therefore allows for harm where public benefits outweigh this, applying paragraph 202 of the NPPF³. As outlined above, it is my opinion that the public benefits of the proposal outweigh the lower end of less than substantial harm identified to the heritage assets, in accordance with paragraph 202 of the NPPF and, therefore, the appeal proposal does not conflict with Part A of SWDP Policy 24.

3.36. Finally, Part B of Policy SWDP 24 requires:

³ I acknowledge that this is not a position taken by Inspector Hill but I am not aware of this interpretation of the policy being considered by the Inspector. For example see paragraph 24 of the appeal decision [CD7.1]

“Proposals likely to affect the significance of a heritage asset, including the contribution made by its setting, should be accompanied by a description of its significance in sufficient detail to allow the potential impacts to be adequately assessed. Where there is potential for heritage assets with archaeological interest to be affected, this description should be informed by available evidence, desk-based assessment and, where appropriate, field evaluation to establish the significance of known or potential heritage assets.”

- 3.37. It is my opinion that the proposals accord with Part B of Policy SWDP 2, in that the information submitted with the application and appeal provides a description of the assets significance in sufficient detail to allow the potential impacts to be adequately assessed. In respect of archaeology, the application was also supported by sufficient information in relation to archaeology and the Officer’s delegated report confirms that subject to the implementation of a conditional programme of archaeological works, *“the proposal would accord with the provisions of policies SWDP 6 and 24”* in respect of archaeology.
- 3.38. As such, should the Inspector agree that the public benefits of the appeal proposal outweigh the lower end of less than substantial harm identified, it is my opinion that the proposal would not conflict with Policy SWDP 24.
- 3.39. In addition, noting Policy 6 and its reasoned justification states that it should be read in conjunction with Policy SWDP 24, one could interpret that if you are consistent with SWDP 24 (as a result of compliance with paragraph 202 of the NPPF) the appeal proposal should therefore also be considered consistent with Policy SWDP 6 (and SWDP 21) given the link between the policies. However, I have decided to take a precautionary approach to the interpretation of these policies, and I therefore conclude that the appeal proposal is consistent with Policy SWDP 24, but not with Policy SWDP 6 and SWDP 21.

S106 Agreement – Reason for Refusal 3

- 3.40. The third reason for refusal was made in the absence of a S106 Agreement following the appeal against non-determination. Consequently, the LPA did not have an obligation in place to secure the necessary contributions/provision of infrastructure to deem the proposals acceptable in planning terms (paragraph 57 of the NPPF).
- 3.41. The intention is to submit a final draft S106 Agreement agreed by both parties to the Planning Inspectorate no later than 10 working days before the start of the inquiry. The draft S106 Agreement will address the third reason for refusal such that if planning permission is granted the necessary contributions and delivery of infrastructure will be delivered that is needed to support the

development, as required by Policy SWDP 7 B. Notwithstanding this, for completeness, the following addresses the policies referred to in the LPA's second reason for refusal.

3.42. At this point it is worth highlighting that Part A attached to Policy SWDP 7 is not relevant in this case.

Affordable Housing

3.43. The proposals will deliver 40% affordable housing on site in accordance with Policy SWDP 15 A and Part B) i). Part B) also states that the number, size, type, tenure and distribution of affordable dwellings to be provided will be subject to negotiation, dependent on recognised local housing need, specific site and location factors and development viability. A similar request is contained at part E) which echoes that the final affordable housing mix will be subject to negotiation on individual sites. It goes on to state: *"Generally, the preference will be for social rented, unless for example a contribution from an alternative affordable housing tenure is required to achieve scheme viability or local need has been demonstrated for a different affordable housing tenure."*

3.44. The Council's Housing Officer [CD3.8] requested a tenure split of 73% social rented and 27% First Homes. The Housing Officer noted that *"the Council's Affordable Housing Supplementary Planning seeks 80% social rented and 20% intermediate housing products. However, as of 28/12/2021, a minimum of 25% of all affordable housing through developer contributions must be delivered as First Homes..."*. The justification for this is set out in the Housing Officer's comments having regard to The Strategic Housing Market Assessment (SHMA) (2019) [CD4.8], and Parish Housing Needs Survey undertaken in March 2020 [CD4.18].

3.45. In addition, the 'Malvern Hills, Worcester City and Wychavon Strategic Housing Market Assessment 2021 Update' published November 2021 [CD4.20] at paragraphs 4.28 to 4.30 recommends, through technical evidence, *"that 69% of new affordable housing is social rented, 6% affordable home ownership and 25% affordable home ownership through First Homes."*

3.46. In this regard, both parties agree that the affordable housing tenure is policy compliant. Thus, the proposals meet Policy SWDP 15 B) and part E).

3.47. To comply with part D), the S106 Agreement ensures that the affordable housing provided will remain affordable and, in this case, available to meet the needs of local people.

3.48. Parts C) and F) are not applicable in this case, and part G) is informative.

3.49. As a result, the proposals comply with the relevant parts of Policy SWDP 15 and consequently paragraphs 62 and 65 of the NPPF.

Off-site Open Space/Sport Facilities

- 3.50. Policy SWDP 39 A requires proposals in excess of 5 dwellings to make provision for Green Space and outdoor community uses as set out in Table 10 of the development plan. It then goes on to state that *“the total amount of Green Space will be within the overall quantum of Green Infrastructure required by SWDP 5.”* The proposals (based on the proposed masterplan) will achieve 63.8% Green Infrastructure⁴ (GI) - significantly greater than 40% required in Policy SWDP 5 A) i) in the form of public open space, tree and hedgerow planting and sustainable drainage methods. In that context the proposals are consistent with Policy SWDP 39 A.
- 3.51. Part B states where it is *“impractical and inappropriate to deliver all the open space typologies on site”* as contained in Table 10, *“developer contributions towards off-site provision will be sought and secured through a legal agreement.”* Whilst that table does not refer to a set standard in respect of the delivery of formal pitches, part C states *“requirements for new and improved formal sports pitches will be assessed on a case by case basis using the most up-to-date available evidence.”*
- 3.52. Comments from the Council’s Project Emergency Planning Manager requested contributions for the improvement of sports facilities and formal pitches in Droitwich [CD3.5]. The Appellant has queried these contributions and whether they meet the tests set out at Paragraph 57 of the NPPF. An update will be provided on this matter shortly.
- 3.53. The draft S106 includes a clause to ensure long-term maintenance/management arrangements for all Green Space/community uses are secured onsite, complying with the last part of part B.

Highways

- 3.54. The Local Highways Authority has confirmed in its latest consultation response that it has no objection to the proposals, subject to conditions and financial obligations. This includes the following:
- i. Contributions of £360,000 towards expansion of local bus services, and £4,536 towards community transport for elderly and disabled.
- 3.55. The Appellants agree that these contributions meet the tests set out at Paragraph 57 of the NPPF, echoed at part B of Policy SWDP 7.

⁴ Which excludes land within the blue line boundary on the site location plan

3.56. As well as complying with Policy SWDP 7 B, the agreed contributions demonstrates that priority is given to improving public and community transport provision, walking and cycling infrastructure as required by Policy SWDP 4 D, reflected at Paragraph 112 of the NPPF.

Healthcare

3.57. NHS contributions have been requested [CD3.7]. The Appellants dispute the need for this contribution noting the conclusions of other Inspectors in relation to this request recently, including:

- i. Paragraph 28 of appeal decision 3300326 at Land West of Ivy Lane, Bretforton [CD7.5]
- ii. Paragraph 30 of appeal decision 3299691 at Land east of Tagwell Road, Droitwich [CD7.8]
- iii. Paragraph 32 of appeal decision 3266573 at No. 1 and The Neuk No. 3 Bretforton Road, Badsey [CD7.13]
- iv. Paragraphs 49 – 53 of appeal decision 3267054 at Claphill Lane, Rushwick appeal [CD7.7]

3.58. In the very recent Bretforton appeal [CD7.5], the Inspector concluded that whilst there is a policy basis for this contribution, *“the lack in any of the evidence that existing primary healthcare facilities are oversubscribed, and therefore new capacity is needed to accommodate the proposal, means that I cannot be certain that the contribution is necessary in order to make the development acceptable in planning terms.”*

3.59. The Appellants consider the conclusions of these Inspectors are equally applicable to the appeal proposal in this case.

3.60. A summary of all contributions is detailed below, all of which will benefit both future residents of the development and existing residents of the settlement.

Education

3.61. Education contributions have been requested for first, middle and secondary school spaces as well as SEND [CD3.20].

3.62. The Appellants' have queried the calculations in respect of the education contributions and are awaiting a response from the Council on this. The query related to the fact that Wychavon's Regulation 123 List identifies that education will be funded through CIL unless otherwise stated. Additional places at Droitwich is not one of the exceptions and so any such provision should be funded through CIL. Indeed, the latest Infrastructure Funding Statement confirms that CIL has been used to fund the expansion of schools. The evidence therefore advises that CIL, including that which arises from the appeal site, will be used to secure additional school places if required, and so it would not in my opinion be fair, reasonable or necessary to pay for this again through a s106

contributions. As such, it is my opinion that no contributions are payable through a s106 even if there is insufficient capacity.

Table 1 - Summary of contributions attached to the appeal scheme.

SECTOR/DISCIPLINE	CONTRIBUTION/PROVISION	
Affordable Housing	A policy compliant amount of affordable housing (40%) delivered on site with a tenure split of 73% social rent and 27% First Homes.	
Highways	Expansion of local bus service	£360,000
	Community Transport for Elderley and Disabled	£4,536
Open Space	***Awaiting response from the Council on justification for this contribution*** Formula-based calculation for Open Space provision based on the final housing mix/size to be agreed at the reserved matters stage. This could potentially be up to £188,726.12 to provide the following:	
	Formal Pitches	Up to £236,070 towards off-site formal sports pitches in the locality
	Formal Sports and Leisure	Up to £61,076 to be used towards local leisure provision
Education	<ul style="list-style-type: none"> • First school places - £451,541 for Cutnall Green or Westlands School • Middle School places - £280,472 for Witton Middle or Westacre School • Secondary school places - £499,260 for Droitwich Spa High and Sixth Form 	

	<ul style="list-style-type: none"> • SEND - £172,100 for improved special educational needs facilities • Total - £1,620,126 <p>***Awaiting response from the Council on all education contributions***</p>
Healthcare	Contested.
CIL payment	Approximately £206,000

Conclusions

3.63. To summarise, clarification is being sought in relation to sports, open space and education monies being sought. Healthcare is being contested. The remaining contributions outlined above accord with Policy SWDP 7 B by being necessary to support the development. Those that relate to the affordable housing provision onsite and offsite also comply with Policy SWDP 15, and those that relate to the provision of green space comply with Policy SWDP 39. In addition, the highway contributions comply with the purpose of Policy SWDP 4 D which is to give priority to improving public and community transport provision, walking and cycling infrastructure.

3.64. The draft S106 Agreement also ensures that any new infrastructure will be brought forward no later than when the development requires it, meeting part C of Policy SWDP 7. As a result, the proposals comply with Policy SWDP 7.

3.65. In the context of Paragraph 57 of the NPPF, which reflects the purpose of Policy SWDP 7, the above demonstrates the contributions contained in the draft S106 are compliant insofar that they are:

- a) *“necessary to make the development acceptable in planning terms;*
- b) *directly related to the development; and*
- c) *fairly and reasonably related in scale and kind to the development.”*

3.66. As such, the third reason for refusal is alleviated.

Conclusions in respect of Planning Policy

3.67. This section has demonstrated that the proposal conflicts with some parts of Policy SWDP 2 because the site is outside a development boundary (and is not one of the exceptions to development in this location) and the proposal will cause a limited adverse impact on the landscape character of the countryside. The following weighs in favour of the proposal:

- The proposals are of an appropriate scale and type relative to Droitwich where the development plan encourages growth. Indeed, it is a 'Main Town' within the district and therefore sits at the top of the hierarchy for the delivery of housing in Wychavon.
- The site is agreed to be a sustainable location from an accessibility perspective.
- In landscape impact terms, the proposal will give rise to a limited but not significant adverse effect. And indeed, when considering landscape effects, it is relevant that the Council is heavily reliant on greenfield sites to meet its current and emerging housing targets.
- The proposals would help provide for and facilitate the delivery of housing to meet objectively assessed needs to 2030. This is particularly noteworthy given that the district is currently failing to meet its housing targets (as referenced in SWDP 3).
- Policy SWDP 1 does not preclude development outside settlement boundaries where the benefits of a scheme significantly and demonstrably outweigh any adverse harm caused (as reflected in Paragraph 11 d) ii). Where this test can be met, regardless of whether the site is within a settlement boundary or not, the development would comply with the development plan as a whole and planning permission can be granted. This is explained in the Planning Balance section of my Proof.

3.68. The areas where the proposals comply with the development strategy contained in Policy SWDP 2 temper the extent of conflict with the policy. The balance between those areas and ones which the proposals are in conflict with is undertaken in the Planning Balance section of my Proof below, which also considers the weight to be given to the policy.

3.69. It has also been concluded that there is some conflict with Policies 6 and 21 of the SWDP by virtue of Dr Edis' conclusion there will be less than substantial harm to the setting of the Grade 1 listed Church of St Mary and Grade II listed lych gate.

3.70. Finally, the third reason for refusal has also been addressed, demonstrating through the draft S106 Agreement that the necessary contributions and infrastructure will be put in place to make the development acceptable in planning terms, complying with Policies SWDP 7, 15 and 39, and thereafter Paragraph 57 of the NPPF.

Consideration of the refused appeal

3.71. I acknowledge that appeal proposal reference APP/H1840/W/18/3218814 involving 144 dwellings on the appeal site and refused by Inspector Hill in January 2020 forms a material consideration in the determination of this appeal. Section 4 of the Planning SoCG provides a comparison of the two schemes so I do not repeat everything here. Furthermore, points specifically relating to landscape and heritage are considered in the Proofs by Ms Ede and Mr Edis. However, some of the key points are summarised below.

- a) A reduction in the number of units from 144 to 102 dwellings and a reduction in the developable area to create a larger retained area of open space between the proposed development and heritage assets to the north (as shown below). The appeal proposal now includes a setback of c. 158m from the front of the church to the nearest proposed dwelling.
- b) The previous proposal resulted in less landscape enhancements to the site. The appeal proposal introduces more planting within the development and around its edge (please refer to the landscape strategy plan contained in Ms Ede's Proof).



- c) The refused appeal was considered at a time when the Council could demonstrate a 5YHLS unlike for this current appeal. As such the weight to be attributed to the benefit of the provision of new housing should be a lot greater now in my opinion. Furthermore, policies which otherwise constrain the delivery of much needed new housing should be regarded as being out-of-date and therefore be attributed reduced weight than when Ms Hill determined the previous appeal and based her decision on those policies being up-to-date. Finally,

paragraph 38 of the Ms Hill's decision letter [CD7.1] determined that the tilted planning balance did not apply, which it does now.

- d) Below I therefore address the weight to be given to the benefits and adverse impacts of the subject proposal given the changes in the proposal and in other material considerations such as the 5YHLS situation, and appeal decisions which assist in clarifying what weight should be attributed to the benefits in this case where they are different to the weight given by Ms Hill. In other cases such as accessibility by sustainable modes of transport (moderate) I agree with the weight attributed by Ms Hill.

3.72 The following section addresses the third-party comments received as part of the application and appeal process.

4. THIRD PARTY COMMENTS

4.1 Several third-party comments have been received as part of the appeal process. These comments have been reviewed and are summarised under headings.

Previous Appeal Decision/Heritage Considerations

4.2 The Parish Council have noted that an appeal on this site was dismissed for 144 dwellings some three years ago, they identify that *“one of the reasons for the rejection the individual identity of the area and setting of the Grade I Listed Church.”*

4.3 The Parish Council concludes that the reduction in dwellings from 144 – 102 will *“have the same effect as the original refused applications it too will destroy the individuality and rural setting of the whole area, included the listed buildings and rural settlement setting and environment.”*

4.4 Residents have also queried what has changed since the last appeal, to allow the proposed development to now go ahead since the previously refused appeal on the site.

Appellants response:

4.5 I deal with this point in paragraph 3.71 above.

Landscape Impacts

4.6 Local residents have raised concerns regarding landscape impacts.

Appellants response:

4.7 Landscape impacts are addressed fully in Ms Ede’s Proof, which is also summarised later in this Proof.

Housing Delivery

4.8 The Parish Council suggests that the appeal proposals would not help provide ‘instant’ new homes in the district as the Appellants are not a developer and thus, they consider the proposal would not be able to add to the numbers in less than 3-4 years, by which time the Parish Council states it anticipates the current issues regarding housing supply will have corrected itself.

Appellants response:

4.9 The Appellants have suggested a condition to the Council to secure the submission of a reserved matters application within 18 months of the grant of outline planning permission, and the same for implementation which will speed up delivery of much needed housing.

Flood Risk and Foul Drainage

4.10 The Parish Council has questioned whether there is enough capacity in North Droitwich to accommodate sewerage. They note that the two manholes adjacent to the Elmbridge Brook overflow and spill sewage into the Brook during rainy periods. Residents have also raised flood risk concerns.

Appellants Response:

4.11 Flooding and drainage are not matters being contested by the Council as part of this appeal. This is reflected in the consultee comments from the Local Lead Flood Authority [CD3.19] and Severn Trent Water [CD3.12] who raised no objection to the application proposals subject to conditions. The Officer's Delegated report also confirms that *"the site is capable of accommodating a form of development that would not have an adverse impact on the risk of flooding within the site locality, and would incorporate appropriate water efficiency measures in accordance with the provisions of SWDP Policies 28, 29, 30 and the NPPF."*

Loss of Rural Views

4.12 The Parish Council raises a concern that the walkers on the Monarch and Wychavon Way *"are all complaining that the loss of rural views will be totally diminished."*

Appellants Response:

4.13 The Appellants accept that there would be some limited harm to views from the public footpath which adjoins the site to the north, and some limited harm as a result of the change of character of the site from a field of grazed pasture to a developed site. As detailed later in this Proof, it is considered that this harm is of a reduced magnitude when compared to the previous appeal proposal at the site and that this limited harm is a matter to be weighed in the overall planning balance.

Impact on Residential Amenity for Doverdale Park

4.14 Residents have raised concerns regarding the impact of the appeal proposal on the elderly residents at Doverdale Park Homes.

Appellants response:

4.15 The Appellants understand these concerns. However, the Officer's delegated report confirms the site is "*capable of being designed to ensure adequate separation distances are retained from the occupiers of existing properties. Further conditions can be imposed to secure a construction management plan to mitigate any effects associated from the construction process. It is recognised that once the proposed development is fully occupied this would result in potential increased noise and disturbance. However, given this would be in the context of a residential estate type development, this would not be expected to harm the living conditions of the occupiers of existing properties.*"

Transport/Travel

4.16 Residents have raised concerns in relation to transport and travel including concerns such as:

- *Addition of pedestrian refuges, 1.2 m wide, along A442 would not necessarily provide safer crossings.*
- *Contributions to local bus services would still be insufficient to provide a sustainable mode of public transport for school attendance and working hours, night shifts, or evening travel.*
- *Walking distances for schoolchildren not realistic in view of highway conditions.*

Appellants response:

4.17 Highways did not form a reason for refusal and is not a matter being contested by the Local Planning Authority as part of this appeal. This is reflected in the latest response received by the Local Highways Authority [CD3.15] whereby no objection was raised subject to conditions being attached to the planning permission and obligations being secured by way of a S106 Agreement in respect of enhance bus provision. It is concluded that there is no reason to refuse the proposals on highways grounds having regard to Paragraph 111 of the NPPF.

Capacity of local infrastructure

4.18 Residents have also raised concerns regarding the ability of existing local infrastructure to cope with the growth in population that more houses will bring, including highways for extra traffic, new surgeries and new places of education.

Appellants response:

4.19 Contributions will be secured via the S106 agreement to mitigate the impacts of the proposed development. A CIL payment will also be made to further mitigate the impact of the development.

Loss of Wildlife

4.20 Residents also raise concerns regarding the impacts and disturbance to wildlife which has been observed at the site.

Appellants response:

4.21 As set out in Section 5 of this Proof, the appeal proposal will secure a minimum biodiversity net gain of 20%, which is in excess of policy requirements.

5. DOES THE PROPOSAL REPRESENT SUSTAINABLE DEVELOPMENT

5.1 This section considers the appeal proposal against the three dimensions of sustainable development: the economic, social, and environmental objectives as set out at Paragraph 8 of the NPPF.

Economic Considerations

5.2 The economic dimension within the NPPF highlights that development should contribute towards building a strong, responsive and competitive economy.

5.3 The development of housing growth and investment into the housing sector brings significant growth to the construction industry. With reference to the "Laying the Foundations: A Housing Strategy for England. HM Government" every £1 million received from new housing development supports 12 net jobs (seven direct and five indirect) for a year, as well as apprenticeship opportunities. A more responsive housing market can play a major role in delivering local economic growth, with housing construction, repairs and maintenance having a direct impact on economic output, accounting for an average 3% of GDP. This would bring prosperity and growth to the local economy.

5.4 A well-functioning housing market is therefore vital to the Country's competitiveness and attractiveness to business, which will drive the economic growth the country needs. The availability of housing in the right places and at the right time will therefore bring economic prosperity to areas, supporting the economic dimension to sustainable development.

5.5 In this case, the economic value of development can be taken directly from the House Builders Federation (HBF) calculator, that stipulates that the delivery of approximately xx dwellings will generate the following economic benefits:

- support the employment of 316 people; and
- generate £1,229,406 in tax revenue (including £115,204.92 in council tax revenue).

5.6 Additionally, future residents of the residential development will contribute towards the local economy by supporting existing services and facilities within the Wychavon District, particularly in Droitwich which will support its role as a Main Town as defined in the SWDP, boosting the local authority's GDP.

5.7 Paragraph 81 of the NPPF states:

“Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.”

- 5.8 The additional spending from the new housing, the potential that more economically active people will live in the area and the temporary construction jobs and expenditure will help support economic growth and should be afforded significant weight as per Paragraph 81 of the NPPF. Paragraphs 59 and 74 of appeal decisions reference 3236860 (Land north of St George’s Road, Semington) [CD7.3] and 3275477 (Land to the south of Chilvester Hill, Calne) [CD7.4] also support this conclusion. And paragraph 10 of appeal decision reference 3300326 (Land to the West of Ivy Lane, Bretforton) [CD7.5] support my conclusion on the weight to be attributed to this benefit. Indeed the recently approved Bretforton (an appeal determined by the Inquiry procedure in the same District as the subject appeal) supports a number of my conclusions reached on the weight to be attributed to the benefits of the proposal and the conflict with SWDP2.

Social Considerations

- 5.9 The social dimension within the NPPF seeks to support strong, vibrant and healthy communities by enabling a well-designed and safe built environment with accessible services, reflecting the current and future needs and support communities’ health.
- 5.10 The ‘Vision and Objectives’ chapter of the SWDP describes Droitwich Spa as the largest settlement in Wychavon, with an estimated population of 23,500. It goes on to state that the town provides a range of services including education, health, leisure and retail facilities. In terms of accessibility, Droitwich is described as being well served by the M5, a comprehensive rail service and regular bus services. The Council and highway authority are satisfied that the site is accessible to services and facilities by sustainable modes of transport and there is no alleged conflict with Policy SWDP 4.
- 5.11 The delivery of this site will assist the Government in boosting their supply of housing to meet the needs of present and future generations, a key principle of the NPPF. As such, the site would deliver a mix of housing that would contribute towards meeting the Council’s identified housing need, a benefit that I consider carries substantial weight, as detailed in Section 5 of this Proof.
- 5.12 The nature and scale of the proposals has the ability for housing to be delivered relatively quickly as supported by Paragraph 69 of the NPPF, helping to meet immediate housing needs within the district which is very significant given the Council’s lack of 5YHLS. In addition, the proposals will deliver 40% affordable homes as required by policy.
- 5.13 The future residents of the site will contribute towards helping to sustain the viability and vitality from local communities, the services and facilities that exist within Droitwich, and the wider district.

Inspector Hill attributed this benefit modest weight in the previous appeal decision relating to the site [CD7.1].

- 5.14 The introduction of safe and suitable pedestrian routes that connect to wider area will help achieve this. Moreover, developer contributions made through a S106 agreement/Community Infrastructure Levy will enhance other existing community facilities and services, including the improvement of a local bus service, and contributions towards a community transport service for the elderly, as well as formal pitches and other local leisure facilities.
- 5.15 The appeal proposal includes for the provision of significant areas of Green Infrastructure and public open space, bringing a host of opportunities for social interaction. The open space would help to promote health and well-being within the wider community, in accordance with paragraphs 92 and 98 of the NPPF. This benefit should be attributed moderate weight, as per the conclusions of Inspector Hill at paragraph 48 of the previous appeal decision relating to the site. The Officer's delegated report also confirms that this is a benefit that can be attributed modest weight.
- 5.16 This site therefore has the potential to deliver substantial social benefits.

Environmental Considerations

- 5.17 The site is heavily influenced by the surrounding development. Any perceived harm that is seen to arise as a result of the change in land use from pasture to residential development and amenity open space is considered to be balanced by the opportunity to create landscape enhancements in accordance with the LCT Guidelines. It is also relevant when considering landscape effects that the Council does significantly rely on greenfield sites to meet its housing targets (something that is being agreed in the planning SoCG).
- 5.18 It is agreed that the proposals could result in a reduction in pressure to build on land within the Green Belt and other ecological/environmental designations, which constrain a significant proportion of the area around Droitwich as shown in Appendix 1.
- 5.19 The proposed landscape enhancements including additional tree planting constitute a benefit of the scheme.
- 5.20 It is acknowledged that the proposals will result in less than substantial harm (at the lowest end of the spectrum) to the Grade I listed Church of St Mary and Grade II listed lych gate. The proposals will, however, provide the opportunity for public access to the retained area of pasture (contained in the blue line) nearest the church and lych gate which Dr Edis concludes will better reveal the significance of the heritage assets. I consider this to also represent a benefit of the appeal proposal to be weighed in the planning balance.

- 5.21 The appeal proposal includes for the provision of significant areas of Green Infrastructure and public open space, bringing opportunities for enhancements to the landscape structure and features on the site, through the opportunity for woodland management, meadow grassland and shrub and tree planting. The proposals are committed to delivering a minimum of 40% Green Infrastructure in line with policy requirements which will help to mitigate extreme temperatures, result in natural flood mitigation, and provide habitat protection and creation (paragraph 1 contained in the 'Reasoned Justification' attached to Policy SWDP 5). In fact the proposals will deliver more than the relevant policy requires.
- 5.22 The provision of SuDS will reduce run-off in extreme rainfall events.
- 5.23 The site has a low ecological value, and the appeal proposal also provides the opportunity to significantly enhance its ecological value. The appeal proposal contains significant areas of open space and land to be managed for ecological enhancement, which would support bats, as well as providing for recreational access. The extent of net biodiversity gain is qualified in a note from Ecology Solutions [CD1.22] which identifies that the scheme could achieve a 26.05 BNG %, as measured by the DEFRA biodiversity metric. The Appellants propose a condition requiring a minimum of 20% BNG being achieved.
- 5.24 I am aware that Inspector Hill concluded the ecology benefit moderate weight in the planning balance for the previous appeal [CD7.1]. However, I consider this to be a benefit of substantial weight to be weighed in the planning balance for the subject appeal. This is in line with the recent Secretary of State decision ref: 3259868 relating to Land off Pump Lane, Rainham, Kent [CD7.14] where it was agreed that the provision of at least a 20% BNG, to be secured by condition, was a benefit that attracted substantial weight in the planning balance.
- 5.25 Based on the strategic landscape planting plan the proposal will result in a net increase in tree planting.
- 5.26 The Appellants are happy to accept a condition relating to the reserved matters submission to ensure that at least 10% of the predicted energy requirements associated with the development will be met through the use of renewable/low carbon energy generating facilities as required by Policy SWDP 27. This aligns with the Government's aim to support the transition to a low carbon future and tackle climate change, as advocated at Paragraph 152 of the NPPF.
- 5.27 Furthermore, the proposals will result in enhancements to pedestrian accessibility, continues to indicate a footpath/cycle link through the site with an access point close to the roundabout at the south edge of the site near the A422. This would provide for a more attractive route from The Forest as well as the site when walking or cycling into Droitwich than the current route alongside the A422. When considering the previous appeal proposals, Inspector Hill concluded at paragraph 47 that the

site's proximity to Droitwich and proposed increased accessibility were a modest benefit of the proposed development, which is considered equally applicable to the current application proposals.

- 5.28 Even if a proposal were to lead to some environmental harm, a proposal can still represent sustainable development against the requirements of the NPPF. One such example is appeal decision reference 3133335 at Land to the rear of Canonbury Street, Berkeley, Gloucestershire [CD7.6] where it states at Paragraph 69 that *"while there is some environmental harm, this is limited and localised and is significantly outweighed by the economic and social benefits of the development. I conclude that the proposals comprise sustainable development as described in the Framework."*

Summary

- 5.29 Having regard to the above, the proposal would create a number of social, economic, and environmental objectives of sustainable development. It is my opinion that the benefits associated with the social objectives should be attributed substantial weight. Further, the benefits associated with the economic objective should be attributed significant weight.
- 5.30 In terms of the environmental objective, the proposal would result in some limited adverse impact on landscape character and appearance, and Dr Edis acknowledges that overall, there would be less than substantial harm (at the lowest end of the scale) to the Grade I listed church and Grade II listed lych gate. The proposal will include the provision of public access to the retained area of pasture nearest the church and lych gate which will better reveal the significance of the heritage assets. It will also provide for: the potential to achieve an overall significant ecological enhancement in excess of that required to simply mitigate the proposal; the provision of SuDS, which will reduce run-off in extreme rainfall events; improved recreational opportunities; enhanced pedestrian accessibility and significant tree planting.

6. PLANNING BALANCE

6.1 It is acknowledged that the planning balance is ultimately a matter of judgement for the decision maker. However, I have set out below how I consider the Inspector should approach the determination of this appeal.

Assessment against the development plan as a whole

6.2 The starting point for the determination of a planning application or appeal is the development plan. The planning system is “plan led” and planning law requires that applications for planning permission must be determined in accordance with the development plan unless other material considerations indicate otherwise.

6.3 I first assess whether the proposals accord with paragraph 202 of the Framework.

The Heritage Balance

6.4 As set out earlier in this Proof, Dr Edis’ Heritage Proof has identified that the appeal proposal will result in less than substantial harm to designated heritage assets but that this harm is at a low level within that spectrum and that “*Even within the “low” band of harm in that scale, the effect would tend towards the bottom, rather than the top.*”

6.5 I attribute great weight and importance to the conservation of designated heritage assets, with the understanding that heritage assets are an irreplaceable resource, as per paragraph 189 of the NPPF. As such, I give great weight to the harm to the Grade 1 listed Church of St Mary, and the setting of a Grade II listed lych gate.

6.6 Paragraph 202 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. I therefore undertake an assessment of the public benefits of the appeal proposal below.

Public Benefits

6.7 The Planning Practice Guidance (PPG)⁵ confirms that “*Public benefits may follow from many developments and could be anything that delivers economic, social or environmental objectives as described in the National Planning Policy Framework (paragraph 8). Public benefits should flow from*

⁵ Paragraph: 020 Reference ID: 18a-020-20190723

the proposed development. They should be of a nature or scale to be of benefit to the public at large and not just be a private benefit. However, benefits do not always have to be visible or accessible to the public in order to be genuine public benefits, for example, works to a listed private dwelling which secure its future as a designated heritage asset could be a public benefit."

- 6.8 Amongst the benefits of the proposals would be the provision of a significant number of new homes in a district where there is not a 5 year supply of deliverable housing sites. As noted earlier, it is common ground between the parties that the Council cannot demonstrate a 5YHLS. The housing SoCG identifies a shortfall of between 3.52 (791 homes) and 3.94 (1432 homes) depending on the approach taken to the way the 5YHLS calculation is made. This constitutes an important material consideration in the determination of this appeal. As per Mr Tiley's evidence, it is also clear that the Council will not be able to significantly boost its supply of homes and meet its housing needs without the development of currently unallocated countryside sites beyond existing development boundaries.
- 6.9 The appeal proposals would contribute to the Government's objective to **significantly boost the supply of homes to help meet peoples' housing needs**⁶. As explained in more detail later in this Proof, I consider that the delivery of the proposed open-market housing, in an area where housing delivery requirements are not being met, is a material consideration of substantial weight. I also consider that the benefits of delivering **40% affordable housing** as part of the appeal proposal attracts substantial weight.
- 6.10 Furthermore, the site is located in **a sustainable location from an accessibility perspective**, providing good access to local services and facilities via sustainable modes of travel. The Officer's delegated report acknowledges this point, stating that the site is "*within a reasonably accessible location with new pedestrian and cycle links.*" In line with the conclusions of Inspector Hill in the previous appeal decision [CD7.1], it is considered that the proximity to Droitwich and increased accessibility generated by the appeal proposal represents a benefit of the proposed development which can be attributed modest weight.
- 6.11 In addition to these important benefits, the appeal proposal includes for the provision of **significant areas of Green Infrastructure and public open space**. The open space would help to promote health and well-being within the wider community, in accordance with paragraph 92 of the NPPF. The proposal would also allow public access onto green space that is currently private. This benefit should be attributed moderate weight, as per the conclusions of Inspector Hill at paragraph 48 of the previous appeal decision relating to the site.
- 6.12 The proposed open space to the north of the development will better reveal the significance of the aforementioned heritage assets as concluded by Mr Edis. I attach moderate weight to this benefit.

⁶ Paragraph 60 of the NPPF

- 6.13 As detailed at paragraph 5.22 of this Proof, the site has a low ecological value, and the appeal proposal provides the opportunity to **significantly enhance its ecological value**. The extent of net biodiversity gain is qualified in a note from Ecology Solutions [CD1.22] which identifies that the scheme could achieve a 26.05 BNG %, as measured by the DEFRA biodiversity metric. Given the scheme is made in outline, the Appellants are content with a condition to secure a minimum 20% BNG at reserved matters stage. I attribute this benefit substantial weight as explained in detail at paragraphs 5.21-5.22 of this Proof.
- 6.14 Finally, the development would result in economic benefits as a result of supporting direct and indirect jobs during construction, with additional contributions to the economy generally through the activity and spending of future occupiers. I attach this benefit significant weight, for the reasons as set out at paragraphs 5.2-5.8 of this Proof.

Heritage Balance Conclusion

- 6.15 Overall, it is my opinion that the delivery of the appeal proposal would generate a very substantial package of public benefits, which I consider would outweigh the harm that would arise to the setting of the Grade I listed Church of St Mary and Grade II listed lych Gate.

The Tilted Balance

- 6.16 As noted earlier, it is common ground between the parties that the Council cannot demonstrate a 5YHLS. The housing SoCG identifies a shortfall of between 3.52 (791 homes) and 3.94 (1432 homes) depending on the approach taken to the way the 5YHLS calculation is made. This constitutes an important material consideration in the determination of this appeal. Given the lack of 5YHLS, the most important policies for the determining the appeal are rendered out-of-date (footnote 8 of the NPPF). In such circumstances, SWDP1 D applies, which states:

“D. Where there are no policies relevant to the application or relevant policies are out of date at the time of making the decision then the Local Authority will grant permission unless material considerations indicate otherwise – taking into account whether:

- i. *any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or*
- ii. *specific policies in the Framework indicate that development should be restricted.”*

- 6.17 To support my approach when considering the Development Plan and reference to SWDP1 I refer to paragraphs 11 and 12 of appeal decision 3300326 at Land west of Ivy Lane, Bretforton [CD7.5], where the Inspector states:

“Therefore, in terms of the development plan, Policy SWDP 1 acknowledges that development plan policies can become out of date. In these cases the adverse impacts of the development must significantly and demonstrably outweigh the benefits for the proposal to be unacceptable in terms of this Policy. In this respect the policy mirrors the approach of the Framework.”

“12. It is clear given the substantial range of benefits the proposal would bring, balanced against the limited harm the proposal would cause to the purpose SWDP2 is meant to serve, that the adverse impacts of the proposal would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Whilst this is the approach of the Framework, it is also incorporated in Policy SWDP 1 of the SWDP. Therefore the proposal is in conformity with Policy SWDP 1. Consequently the proposal is in an appropriate location for development having regard to the policies of the development plan as a whole.

6.18 In view of my conclusions on the heritage balance, the remainder of this section will therefore address limb ii) by undertaking the tilted planning balance exercise. The following sub-section summarises the adverse impacts of the scheme followed by its benefits.

Adverse Impacts

6.19 I consider the adverse impacts to be weighed in the planning balance are:

- i. Conflict with Policy SWDP 2 and SWDPR due to the site’s location outside of the settlement boundary;
- ii. Less than substantial harm to Grade I listed Church of St Mary and Grade II listed lych gate;
- iii. Effects on landscape character and appearance resulting in conflict with SWDP 25 and SWDP 2 F; and
- iv. Loss of Best and Most Versatile Agricultural Land.

Conflict with SWDP and emerging SWDPR due to the site’s location outside the settlement boundary

6.20 I acknowledge there is conflict with Policy SWDP 2 A iii), B and C. This is because the site sits on the wrong side of the development boundary and does not meet one of the exceptions for development in this location. There is also some conflict in respect of some limited adverse impact on landscape character, Part F of Policy SWDP 2 (and SWDP 25).

6.21 The appeal proposal does, however:

- Comply with Part A(ii) of Policy SWDP 2 by seeking to provide for and facilitate the delivery of sufficient housing to meet objectively assessed needs to 2030. This also supports Paragraph 60 of the NPPF, helping support the Government’s objective to boost the supply of housing.
- Comply with Part A(vi) of Policy SWDP 2 by providing new housing in a location which is accessible to shops services and facilities in Droitwich Spa by sustainable modes of

transport. Indeed, Droitwich Spa, is a “Main Town” and the largest settlement in Wychavon district for which the development plan supports growth and for which the SWDP identifies has the “greatest housing needs in Wychavon⁷.”

- Comply (in part) with Part F of Policy SWDP 2 by being of an appropriate scale and type to Droitwich for which the development plan supports significant levels of growth.

6.22 It is also unclear from the Officer’s Delegated report or the LPA’s SoC what weight has been afforded to Policy SWDP 2 in the LPA’s planning balance (there is no suggestion in the Officer’s Report that the Council attaches reduced weight to the policy given the Council’s 5YHLS position).

6.23 It is accepted that policies which are considered out-of-date due to a shortfall in housing land supply can still carry weight in the planning balance, and that the weight to be attributed to those policies is a matter for the decision-maker, as set out in *Suffolk Coastal District Council v Hopkins Homes Ltd*. [2017] UKSC 37 [CD8.4]. However, it is my opinion that the weight attributed to Policy SWDP 2 should be limited in the planning balance, for the reasons identified below.

6.24 Firstly, the Council cannot currently demonstrate a 5YHLS, as detailed in Mr Neil Tiley’s Proof. This differs from the situation with the previous appeal for the site in January 2020, where Inspector Hill commented that the Council could demonstrate a 5 year supply of deliverable housing sites at that time.

6.25 There is also no evidence that a five-year land supply will be restored at any point in the near future and given the prevailing trends it is unlikely that such a supply will be able to be demonstrated at least until the South Worcestershire Development Plan Review is adopted. As set out in the judgment *Hallam Land Management Ltd v Secretary of State for Communities and Local Government & Anor* [2018] EWCA Civ 1808 [CD8.5] the extent of the shortfall and the length of time this is likely to persist will be material to the weight afforded to the provision of housing and to the weight afforded to any conflict with relevant policies.

6.26 My conclusion that no more than limited weight should be attributed to Policy SWDP 2 also aligns with the Inspector’s conclusions in relation to the appeal decision reference 3267054 at Land off Claphill Lane, Rushwick [CD7.7]. In this case, only limited weight was given to the conflict with Policy SWDP 2, and the appeal site was also situated within the Significant Gap - an additional constraint which the subject appeal proposals are not party to.

6.27 Furthermore, it also aligns with what the Council agreed in the recent Bretforton appeal [CD7.5] where the Appellant and LPA agreed a table of adverse impacts and benefits and agreed the weight to be attributed to conflict with Policy SWDP 2 was limited.

⁷ See paragraph 29 of the SWDP

6.28 My conclusion is also supported by Mr Tiley's Proof which states:-

- 1) The extent of the shortfall in the Council's housing land supply is substantial.
- 2) The policies of the Development Plan in Wychavon are not sufficiently contributing to the significant boost to housing supply required.
- 3) The policies of the development plan have been demonstrably ineffective in maintaining the minimum supply expected by national policy which will be material to the weight afforded to any conflict with these policies.
- 4) There is a demonstrably need for additional housing to provide a minimum of five years housing land supply.

6.29 In addition, the progress of the emerging SWDP Review has been considerably delayed. The Regulation 18 Preferred Options consultation was undertaken at the end of 2019. The Council has only recently begun a Regulation 19 consultation which is running from 1 November 2022 until 13 December 2022. This is three years later than originally expected, as set out in the Issues and Options consultation document. In that context, the SWDP Review will not be adopted until Spring 2024 at the earliest, a considerable period of time until the Council can address their shortfall in housing land supply.

6.30 In respect of conflict with the policies of the emerging SWDP, it is my opinion that limited weight should be attributed to that conflict. This is supported by the Inspector's findings in the recent appeal decision 3299691 at Land east of Tagwell Road, Droitwich Spa [CD7.8], where minimal weight was attached to its contents.

6.31 In my opinion, the above reaffirms that the weight to be attributed to policies that might otherwise constrain the ability of the district to meet its housing needs should be reduced accordingly. The probable consequence of not attributing reduced weight to those policies is an on-going failure of the district to be able to meet its minimum 5YHLS requirement.

6.32 The above concludes that the operation of the policies in the development plan have not been effective in achieving a 5YHLS against the Council's housing requirement and that the shortfall is substantial. It is therefore appropriate to reduce the weight afforded to those policies which seek to control much needed new residential development.

Harm to heritage assets

- 6.33 It has been identified that there is less than substantial harm, at a low level within that spectrum, to the significance of the Grade 1 listed Church of St Mary, and Grade II listed lych gate as set out above. I give great weight to this harm.

BMV Agricultural Land

- 6.34 I recognise that Paragraph 170(b) requires planning decisions to recognise the intrinsic character of the countryside and the economic benefits of the best and most versatile agricultural land. In addition, Policy SWDP 13 H states that windfall development proposals which would result in the loss of more than two hectares of BMVAL will be required to demonstrate that the proposed development cannot be reasonably accommodated on non-BMVAL; and the benefits of the development significantly outweigh the loss of BMVAL.

- 6.35 I acknowledge that the appeal proposal will result in the loss of a small area of BMV agricultural land - 0.06 ha of grade 2 agricultural land and 2.49 ha of grade 3a (as shown in the plan at Appendix 2). This loss must be considered in the context of the large areas of remaining farmland in the surrounding area. For the previous appeal a report (Appendix 2) was commissioned to look at the impacts on BMV agricultural land. The loss of BMV has been reduced since that proposal resulting from a reduction in developable area. In the conclusions to that report it says:

“6.5 There are no significant effects upon a farm business or issues of severance as a result of the proposed development.

6.6 There are, therefore, no significant effects on agriculture as a result of the proposed development.”

- 6.36 No adverse impact was referred to in the previous appeal decision. I take a precautionary approach and attach limited weight to the loss of BMV agricultural land in this case.

- 6.37 In support of this conclusion, I note that in the Claphill Lane, Rushwick decision [CD7.7] the Inspector found that the site subject of that appeal would result in a loss of approximately 7.2 hectares of BMVAL but concluded that this would be relatively small in the context of the large areas of remaining BMVAL land in the wider area. Whilst the Inspector concluded that the proposed development was contrary to policy SWDP 13H, it was also concluded that as it would primarily relate to land at the lower end of the BMVAL ranking and given the proposal would be relatively small in the context of the large areas of remaining BMVAL land in the wider area, the Inspector concluded the degree of harm in this respect would be limited.

Landscape Harm

6.38 As noted earlier, Ms Ede's Proof acknowledges that the appeal proposal would result in a low level and localised landscape impact. There is limited conflict with the relevant policies in the development plan.

Benefits

Contribution to 5 year housing land supply/significantly boosting supply of housing and provision of affordable housing

6.39 As alluded to above, the two key benefits attached to the scheme are the delivery of proposals to help boost the supply of housing in the district, having regard to the significant shortfall in the Council's 5YHLS position, and the delivery of 40% affordable housing on site. Given their importance, I attribute substantial weight to the provision of new open-market housing and substantial weight to the provision of affordable housing.

6.40 As mentioned earlier, Inspector Hill also stated that these were benefits to be attributed substantial weight in the previous appeal decision relating to the site, and this was at a time when it was considered the Council could demonstrate a 5YHLS.

6.41 For further context, the weight to be afforded to the provision of housing also accords with the conclusions of other decision makers:

- In paragraph 20 of recovered appeal decision 3223010 at 97 Barbook Lane, Tiptree, Colchester [CD7.9], the Secretary of State afforded substantial weight to the provision of market and affordable homes in an LPA that could demonstrate a 4.7 year land supply.
- In paragraph 16 of recovered appeal decision 3204011 at Pale Lane Farm, Fleet, Hart [CD7.10], the Secretary of State affords the provision of open market and affordable housing significant weight notwithstanding the fact that as set out in Paragraph 15, the Council were able to demonstrate a 9.2 year land supply;
- In paragraph 28 of recovered appeal 2197532 at Land off Audlem Road/Broad Lane, Stapeley, Nantwich [CD7.11], the Secretary of State affords the provision of market housing in a sustainable location significant weight notwithstanding that the Council were able to demonstrate a five year land supply of between 5.7 and 6.6 years.

6.42 In the SoS decision 3230827 for Oxford Brookes University, Wheatley Campus, Oxford [CD7.12], the Inspector asserted that in the context of a lengthy housing register *"It is sometimes easy to reduce arguments of housing need to a mathematical exercise, but each one of those households*

represents a real person or family in urgent need who have been let down by a persistent failure to deliver enough affordable houses...”

- 6.43 He went onto state that “Although affordable housing need is not unique to this district, that argument is of little comfort to those on the waiting list” before concluding that “Given the importance attached to housing delivery that meets the needs of groups with specific housing requirements and economic growth in paragraphs 59 and 80 of the Framework, **these benefits are considerations of substantial weight**.” (own emphasis).
- 6.44 In the planning balance the Inspector gives the provision of affordable housing ‘very substantial weight’. In determining the appeal, the SoS concurred with these findings, thus underlining the importance of addressing needs on the Housing Register, in the face of acute needs and persistent under delivery.
- 6.45 The social need for affordable housing is clearly a very important benefit to the scheme where in meeting such needs meets one of the aims of sustainable development in the NPPF. Accordingly, it is my view that the provision of 40% affordable housing, equating to 41 homes, would make a very valuable contribution toward addressing the housing crisis within the district. The provision of affordable housing should therefore attract substantial weight in the planning balance.

Other associated, social, economic, and environmental benefits

- 6.46 In addition to the above benefits arising from the provision of new open-market and affordable housing I have described above, there are also a number of other benefits of the appeal proposals, which have already been explained in detail in Section 5 of this Proof. All these benefits should also be weighed in the planning balance.
- 6.47 For ease of reference, I have set out in the table below a summary of all the aforementioned benefits as well as a summary of the adverse impacts of the appeal proposals, as discussed earlier in this section.

Table 2 - Summary of adverse impacts and benefits.

ADVERSE IMPACTS		
Adverse Impact	Scale of Impact	Explanation
Conflict with Policy SWDP 2 in relation to settlement boundary and with emerging SWDP Review	Limited	As per paragraphs 6.32 of this Proof.

Loss of BMV Agricultural land/Conflict with Policy SWDP 13 H	Limited	As per paragraphs 6.34-6.37 of this Proof.	
Impact on the setting of Grade I and Grade II Listed Buildings/Conflict with Policies SWDP 6 and 21.	Lower end of less than substantial harm – great weight.	As per paragraphs 6.4-6.6 of this Proof.	
Landscape adverse effect/Conflict with Policy SWDP25 and SWDP 2 F.	Limited	As per paragraphs 5.17 and 6.38 of this Proof.	
BENEFITS			
Dimension of sustainable development	Contributing Factors	Scale of impact/public benefit	Explanation
Social	The delivery of housing to the 5YHLS	Substantial Benefit	As per paragraphs 6.39-6.41 of this Proof.
	Delivering 40% affordable housing on site	Substantial Benefit	As per paragraphs 6.42-6.45 of this Proof.
	Provision of new Public Open Space/Green Infrastructure	Moderate Benefit	As per paragraph 5.15 of this Proof.
	Accessible location relative to Droitwich which is a Main Town.	Moderate benefit	As per paragraph 6.10
	A number of the s106 payments and percentage of the CIL payment will results in improvements to facilities and infrastructure as well as mitigating the impacts of the development.	Limited Benefit	Table 1 below paragraph 3.62 and paragraph 5.14 of this Proof.

	The three benefits above will together help support promote a healthy, safe and inclusive community as advocated by paragraph 92 of the Framework.		
Economic	Construction jobs/local economic benefits	Significant Benefit	As per paragraphs 5.2 to 5.8 of this Proof.
Environmental	20% Biodiversity Net Gain	Significant Benefit	As per paragraphs 5.21 of this Proof.
	Provision of public access to the retained area of pasture nearest the church and Lych gate which will better reveal the significance of the heritage assets.	Moderate Benefit	As per paragraph 5.4 of this Proof.
	Reduced flood risk in extreme rainfall events	Limited Benefit	As per paragraph 5.21 of this Proof.
	Provision of tree planting (over and above that required to mitigate landscape impacts)	Very limited benefit	As per paragraph 5.24 of this Proof.
	The proposals would result in a reduction in pressure to build on land within the Green Belt and other ecological/environmental designations, which constrain a significant proportion of the area around Droitwich as shown in Appendix 1	Very limited benefit	As per paragraph 5.18

6.48 Overall, when considering Table 2 above, I consider the adverse impacts of granting planning permission in this instance would not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

Final Planning Balance

- 6.49 I acknowledge that the proposal conflicts with the development plan in relation to the following matters:
- 1) The site is outside of the development boundary and therefore conflicts in part with SWDP2, specifically part of part B and part C. I attribute limited weight to this conflict based on the Council's inability to demonstrate a robust 5YHLS.
 - 2) The proposals would cause a limited landscape adverse impact and limited degree of conflict with SWDP 2 F and 25.
 - 3) The proposals would cause less than substantial harm to the setting of St Marys Church and the lych gate and thus conflict with SWDP 6 and 21. I attach great weight to the heritage harm which has been identified by Mr Edis.
- 6.50 I earlier advise that the weight to be attributed to policies that might otherwise constrain the ability of the district to meet its housing needs ought to be reduced accordingly. Hence why I and Inspector's determining other recent appeal cases have attributed limited weight to the conflict with development boundary policies. It is a matter for the decision maker ultimately but the same could be applied to other policies referred to above. Indeed, the consequence of not attributing reduced weight to those policies is an on-going failure of the district to be able to meet its minimum 5YHLS requirement.
- 6.51 It is also my view that there are a number of benefits to the scheme which as a package would, in my view, significantly outweigh the adverse impacts when assessed against the policies of the Framework as a whole.
- 6.52 As such planning permission should be granted in line with Paragraph 11d) of the NPPF, and consequently the proposals comply with the development plan as a whole in line with Policy SWDP 1 D.
- 6.53 If the Inspector finds that the proposal does not accord with the development plan as a whole through Policy SWDP 1, then as a secondary argument the tilted balance is engaged within paragraph 11(d)(ii) of the NPPF, meaning that permission should be granted pursuant to the presumption in the Framework.
- 6.54 Overall, it is my view that the two scenarios above mean that planning permission can be granted.

7. CONCLUSION

7.1 This Planning Proof of Evidence (Proof) has been prepared on behalf of Beechcroft Land Ltd and Henry Bouskell C/O Trustees of the Wimbush Droitwich Settlement, (hereafter referred to as 'the Appellants') in support of their appeal against Wychavon District Council's failure to determine its outline planning application at land north of Droitwich Spa, Droitwich (hereafter referred to as 'the site') within the relevant statutory period.

7.2 The description of development is:

"Outline planning application for the erection of up to 102 dwellings, new vehicular and pedestrian access, and associated works. All matters reserved except for access."

7.3 I recognise the importance of the plan-led system, and in doing so I acknowledge conflicts with certain policies in the development plan in relation to the following matters:

- 1) The site is outside of the development boundary and therefore conflicts in part with SWDP2, specifically part of part B and part C. I attribute limited weight to this conflict based on the Council's inability to demonstrate a robust 5YHLS.
- 2) The proposals would cause a limited landscape adverse impact and limited degree of conflict with SWDP 2 F and 25.
- 3) The proposals would cause less than substantial harm to the setting of St Marys Church and the lych gate and thus conflict with SWDP 6 and 21. I attach great weight to the heritage harm which has been identified by Mr Edis.

7.4 Dealing with the heritage impacts the proposal falls to be assessed against paragraph 202 of the Framework. It is my opinion that the delivery of the appeal proposal would yield a substantial package of public benefits, which I consider would outweigh the harm that would arise to the setting of the Grade I listed Church of St Mary and Grade II listed lych Gate, acknowledging the considerable importance associated with conserving and enhancing heritage assets.

7.5 It is common ground between the parties that the Council cannot demonstrate a 5YHLS. The housing SoCG identifies a shortfall of between 3.52 (791 homes) and 3.94 (1432 homes) depending on the approach taken to the way the 5YHLS calculation is made. This constitutes an important material consideration in the determination of this appeal. Given the lack of 5YHLS, the most important policies for the determining the appeal are rendered out-of-date (footnote 8 of the NPPF). In such circumstances, and in view of my conclusions on the heritage balance, the tilted planning balance applies.

- 7.6 I earlier advise that the weight to be attributed to policies that might otherwise constrain the ability of the district to meet its housing needs ought to be reduced accordingly. Hence why I and Inspector's determining other recent appeal cases have attributed limited weight to the conflict with development boundary policies. It is a matter for the decision maker ultimately but the same could be applied to other policies referred to above. Indeed, the probable consequence of not attributing reduced weight to those policies is an on-going failure of the district to be able to meet its minimum 5YHLS requirement.
- 7.7 It is also my view that there are a number of benefits to the scheme which as a package would significantly outweigh the adverse impacts when assessed against the policies of the Framework as a whole.
- 7.8 As such planning permission should be granted in line with Paragraph 11d) of the NPPF, and consequently the proposals comply with the development plan as a whole in line with Policy SWDP 1 D.
- 7.9 If the Inspector finds that the proposal does not accord with the development plan as a whole through Policy SWDP 1, then as a secondary argument the tilted balance is engaged within paragraph 11(d)(ii) of the NPPF, meaning that permission should be granted pursuant to the presumption in the Framework.
- 7.10 Overall, it is my view that the two scenarios above mean that planning permission can be granted.

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