

TOWN & COUNTRY PLANNING ACT 1990

APPELLANT: Beechcroft Land Ltd

LPA: Wychavon District Council

SITE: Land to the East of Kidderminster Road, Droitwich Spa

## **STATEMENT OF COMMON GROUND**

**APPEAL REFERENCE: APP/H1840/W/18/3218814**

Inquiry to be held at: Wychavon District Council

Commencing: 8<sup>th</sup> October 2019

**Signed on behalf the appellant: Guy Wakefield:**

A handwritten signature in black ink, appearing to read 'G. Wakefield', written in a cursive style.

Position: Partner, Ridge and Partners LLP

Date: 9/9/19

**Signed on behalf of the LPA: Emma Worley**

A handwritten signature in black ink, appearing to read 'E. Worley', written in a cursive style.

Position: Development Manager Wychavon District Council

Date: 10.9.19

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## 1. Introduction

- 1.1. This Statement of Common Ground has been prepared jointly by Ridge and Partners LLP on behalf of Beechcroft Land Ltd (hereinafter referred to as 'The Appellant') and Wychavon District Council (hereinafter referred to as the 'Council').
- 1.2. This Statement refers to the Section 78 planning appeal against the Council's decision to refuse outline planning permission for the development of up to 144 dwellings (including 50% affordable), access and associated works on land to the North of Droitwich Spa (the Site). Matters relating to Appearance, Landscaping, Layout and Scale are reserved for future consideration. The application was assigned reference 17/01631/OUT.
- 1.3. This Statement sets out agreed matters of fact and the agreed positions between the Council and the Appellant in respect of this appeal. It also sets out the matters disputed.

## 2. The Appeal

2.1. By way of background, the application was registered on 7<sup>th</sup> August 2017. The Council refused planning permission under delegated powers on 18<sup>th</sup> June 2018. A decision notice was subsequently issued which sets out the Council's reasons for refusing planning permission. There are 5 numbered reasons for refusal ('RfR'). Those reasons 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 as such would be contrary to SWDP25. The SWDP has been prepared and adopted in the context of the National Planning Policy Framework (NPPF) and its contents reflect the presumption in favour of sustainable development and guide how the presumption will be applied locally. To grant planning permission would also go against one of the core planning principles as set out in para. 17 of the NPPF in that permitting development would not be plan-led. The proposed development is, therefore, contrary to adopted South Worcestershire Development Plan (2016) Policies SWDP1, 2, 4 and 25 as well as guidance contained in the National Planning Policy Framework (2012).*
- 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 any public benefits. The proposal is therefore not considered to represent sustainable development. The proposal fails to accord with policies SWDP6, 21 & 24 of the South Worcestershire Development Plan as*

*well as guidance contained in the National Planning Policy Framework (including) paragraph 131 - 134.*

3. *The development is on a site that has the potential for archaeology from various periods. In order to properly evaluate the significance of below ground heritage assets that may be present, a site evaluation in the form of trial trenching to identify any archaeological features of the site is required. In the absence of such information, the application fails to describe the potential presence/significance of heritage assets and how the proposed development may affect potential features of archaeological interest/value. Consequently, the proposed development is contrary to adopted South Worcestershire Development Plan (2016) Policies SWDP1, 6, 21 and 24, as well as guidance contained in the National Planning Policy Framework (2012).*
4. *The level of ecological survey information submitted with the application is insufficient to enable the Planning Authority to assess the proposal fully against likely impacts on protected species and ecologically connected habitats.*

*The Framework asks local planning authorities to minimise impacts on biodiversity and to provide net gains in biodiversity where possible. Local Authorities also have a duty to conserve biodiversity under the Natural Environment and Rural Communities Act 2006 and these requirements are reflected in the Council's policy SWDP22.*

*Circular ODPM 06/2005 makes it clear in para 99 that "It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision."*

*Based on the above requirements, the proposal fails to demonstrate that the development would comply with Policy SWDP22 of the South Worcestershire Development Plan.*

5. *Whilst noting the applicant's willingness to enter into a Section 106 legal agreement, no secure arrangements are in place to secure:*
  - *Monies in lieu of onsite formal sports pitches and potentially in lieu of sufficient on-site public open space of range of types set out under policy SWDP39*
  - *The provision of a contribution towards cycling infrastructure; 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 guidance contained in the National Planning Policy Framework.*

- 2.2. A copy of the Council's decision notice is enclosed at Appendix A.
- 2.3. In terms of **RfR1**, it is agreed there is no conflict with SWDP 4 as the site is accessible to services and facilities by sustainable modes of transport.
- 2.4. In respect of **RfR2**, the Council has confirmed that it is no longer disputing impact on the linear character of development in Hampton Lovett.
- 2.5. The Appellant has submitted further information to the Council pursuant to matters of archaeology which the parties agree addresses the harm alleged in **RfR3**.
- 2.6. The Appellant has submitted further information to the Council pursuant to matters of ecology which the parties agree addresses the harm alleged in **RfR4**.
- 2.7. The Appellant intends to submit a legal agreement during the determination of the appeal to ensure the contributions sought by Wychavon District Council are secured and delivered.
- 2.8. The matters between the parties are, therefore, enshrined at:
  - **RfR1 – Principle of Development** (site's location outside the settlement boundary) **and landscape impact** (the extent of conflict with SWDP25)
  - **RfR2 – Heritage** (the extent of conflict with SWDP6 and SWDP 24)

### **3. Site and Surrounding Area and Planning History**

#### The site and its location

- 3.1 The appeal site is within the administrative area of Wychavon District Council, of which Droitwich Spa is one of the principal settlements. The site is located to the north of Droitwich Spa to the east of the A442.
- 3.2 The site is located to the north of Droitwich and the Berry Hill Industrial Estate, but is separated by land designated as 'Significant Gap' in the South Worcestershire Development Plan. It is bound by the A422 to the west with Hampton Lovett Industrial Estate beyond. An un-adopted road known as 'The Forest' runs on an east-west axis to the north of the site. St Mary's Church is located at the terminus of The Forest. The Worcester – Kidderminster railway line is to the east of the site with the West Midlands Green Belt beyond.
- 3.3 The site is bound by mature hedgerow on its south and west boundaries. Stock proof fencing demarks the site's northern boundary with The Forest. The site's eastern boundary with the railway line benefits from a linear provision of closely spaced and mature trees.
- 3.4 Droitwich Town Centre is located 1.2 miles to the south of the site. It provides a shopping centre, two supermarkets, a hospital, a Leisure Centre, a range of eateries and public houses and office space. Droitwich has a number of primary and secondary schools, the closest of which are Westlands First School and Nursery (0.4 miles) and Droitwich Spa High School (1.7 miles).
- 3.5 A bus stop providing access to services to and from Droitwich town centre is located immediately adjacent to the site at the access to the caravan park. The 5-8 minute journey provides two trips per day in both directions.
- 3.6 Droitwich Spa Railway Station is 1 mile to the south of the site and provides regular and direct services to the extensive facilities and major employment provision at Worcester and Birmingham. Buses run to and from the railway station from Doverdale Caravan Park entrance.
- 3.7 Worcester is 4.9 miles to the south-west of the site and Birmingham is 32 miles to the north-east of the site.
- 3.8 Access to the M5 is via junction 5, 2 miles to the east of the site. The M5 provides direct onward travel to Birmingham (40 minutes) and the south-west. It also provides access to London via the M4 (2 hours 20 minutes).

- 3.9 The site is not affected by any landscape designation. The South Worcestershire Development Plan identifies land to the east of the site and on the opposite side of the Worcester – Kidderminster railway line as Green Belt.
- 3.10 The southern part of the site, between Doverdale Caravan Park and Berry Hill Industrial Estate, is designated as a 'significant gap' by the South Worcestershire Development Plan.
- 3.11 There are no listed buildings or structures on the site. The Grade I listed church of St Mary and its associated Lych Gate (Grade II) and Pakington memorial (Grade II) are located between 10m and 50m from the north-eastern site boundary. The Old Rectory (Grade II) is 430 metres to the north of the site. Hampton Farmhouse (Grade II) is 440 metres to the north of the site.
- 3.12 The appeal site falls entirely within Flood Zone 1. The southernmost part of other land identified by the blue line on the location plan as being within the Appellants' ownership is in Flood Zones 2 and 3.
- 3.13 No Public Rights of Ways are within the appeal site. Bridleway 537(B) follows 'The Forest', bounding the site to the north and public footpath 522(C) runs northwards from the immediate north-east of the site and through the grounds of St Mary's Church. A network of footpaths are located c. 100 metres to the north-east and east of the site, to the opposite side of the railway line.

#### Planning History

- 3.14 There is no planning history which is directly relevant to the application site.
- 3.15 There are seven planning application which relate to Doverdale Caravan Park which is within the immediate confines of the application site:
- 88/01135 granted permission the use of the site as a mobile home park for up to 70 caravans;
  - 89/00746 granted permission for the replacement of part of the present boundary fence with a brick wall;
  - 89/00747 granted consent for an advertising board to be erected advertising the caravan park at the site entrance;

- W/96/00802/PP granted permission for an increase in the number of mobile homes allowed on the park from 70 to 96;
- W/06/00546/PN granted permission for an increase in the number of mobile homes allowed on the park from 96 to 99;
- W/0500546/PN refused permission for an increase in the number of mobile homes allowed on the park from 96 to 100;
- W/14/00521/CU granted permission for an increase in the number of mobile homes allowed on the park from 99 to 102. As part of the consideration of this application, officers confirmed within the Officers Report (CD 10.1) that the site is easily accessible by means other than the private car and that it was overall a sustainable location.

## 4. Appeal Proposal

4.1. The Appeal Proposal is described as follows:

*“Outline planning application for the erection of up to 144 dwellings (including 50% affordable), access and associated works. Matters relating to Appearance, Landscaping, Layout and Scale are reserved for future consideration.”*

4.2. The application was submitted in outline, with all detailed matters reserved for future consideration, with the exception of access.

4.3. The application was originally for up to 181 dwellings, but the description was amended by email on 20<sup>th</sup> March 2018 to that stated at paragraph 4.1 above.

4.4. The plans considered as part of the planning application at the time of determination were:

- Site Location Plan
- Illustrative Site Plan (amended 20<sup>th</sup> March 2018)
- Topographic Surveys
- Illustrative Site Plan showing constraints (used to show constraints only)
- Proposed Footway – Option One
- Proposed Ghost Island Site Access Junction
- Ecology Statement
- Landscape and Visual Impact Assessment
- Travel Plan
- Transport Assessment
- Built Heritage Report
- Design and Access Statement
- Contaminated Land Report

- Arboricultural Report
- Noise Impact Assessment
- Energy Statement
- Archaeological Desk Based Assessment
- Planning Statement
- Flood Risk Assessment and Foul Waste and Utilities Assessment
- Water Management Statement
- Agricultural Land Considerations
- Air Quality Assessment

4.5. Additional information provided after the determination of the application is as follows:

- Archaeological Evaluation Report
- Briefing Note - Bat Survey

4.6. 50% affordable housing will be provided, which is at a level above local policy requirements, which is currently 40%. The tenure mix will be detailed in the legal agreement to be considered with this appeal.

## 5. Planning Policies

5.1 The Planning and Compulsory Purchase Act at Section 38(6) states that determination of planning applications must be made in accordance with the development plan unless material considerations indicate otherwise.

### The Development Plan

5.2 The statutory Development Plan for this appeal comprises the **South Worcestershire Development Plan (SWDP)**.

5.3 The SWDP policies which are most relevant to this appeal are:

- SWDP 1: Overarching Sustainable Development Principles
- SWDP 2: Development Strategy and Settlement Hierarchy
- SWDP 6: Historic Environment
- SWDP 15: Meeting Affordable Housing Needs
- SWDP 21: Design
- SWDP 24: Management of the Historic Environment
- SWDP 25: Landscape Character

### The National Planning Policy Framework

5.4 The Revised National Planning Policy Framework (NPPF) is an important material consideration. The NPPF is intended to be read as a whole, but the parties agree that the following chapters are most relevant to this appeal:

- Chapter 2: Achieving Sustainable Development;
- Chapter 5: Delivering a sufficient supply of homes
- Chapter 8: Promoting healthy and safe communities
- Chapter 11: Making effective use of land

- Chapter 12: Achieving well-designed places
- Chapter 15: Conserving and enhancing the natural environment
- Chapter 16: Conserving and enhancing the historic environment

#### The emerging South Worcestershire Development Plan Review

- 5.5 The South Worcestershire Councils began a review of the SWDP in late 2017 with the aim of trying to ensure that the Development Plan is revised by 2021 in accordance with the NPPF which requires that Local Plans are reviewed every five years.
- 5.6 The review will provide an updated plan period to the year 2041.
- 5.7 The plan is at a very early stage of preparation.
- 5.8 As the plan is not yet in draft form or preferred options outlined, there has been no opportunity for representations to be made to the plan whereby the amount of ‘outstanding objections’ cannot be known.
- 5.9 The ‘Plan review Timetable’ explains that ‘Preferred Options’ will be published prior to November/December 2019. The Draft version of the Review is earmarked for publication in October 2020.

## 6. Agreed Matters

6.1 The following are points of agreement between the Appellant and Wychavon District Council.

### Spatial Strategy

6.2 The site lies outside of the settlement boundaries identified in the South Worcestershire Development Plan and is therefore within the open countryside in planning policy terms.

6.3 The emerging Local Plan Review should have very limited weight only given its early stage of preparation.

6.4 It is agreed that Droitwich is defined as a main town within the SWDP, and the largest town in Wychavon. The site is to the north of Droitwich and is accessible to services and facilities by sustainable modes of transport. It is agreed there is no conflict with SWDP 4 in this regard.

6.5 It is agreed that the council can demonstrate a 5 year housing land supply

### Housing Provision

6.6 The appeal proposal will provide an amount of affordable housing (50%) which is above local policy requirements, which is currently 40%.

6.7 Given the provisions of the NPPF, weight should be attached to the contribution this development will bring to the provision of not only market housing but also affordable housing, in the context of the need to significantly boost the supply of housing. The parties disagree over the weight to be given to this benefit. In the delegated report officers attributed it "significant" weight.

6.8 There is a need for affordable housing within the wider 'South Worcestershire Councils' area.

### Design and Layout

6.9 The plans to be considered as part of the appeal are the Location Plan, Illustrative Site Plan and proposed Access Plan. The illustrative site plan is meant only to indicate how the site could be developed. Matters of appearance, layout, landscaping and scale are reserved for future consideration. The quantum of development is relevant. Should the appeal be allowed for the number of units sought it is unlikely that a scheme of a substantially reduced scale and layout

would be agreed at Reserved Matters stage. Subject to compliance with the Design and Access Statement, a high-quality design development can be achieved on the appeal site

### Landscape Character

6.10 The indicative layout shows most of the proposed built development to be sited to the north of the designated Significant Gap.

6.11 The site is contained in the wider landscape by dwellings on The Forest to the north, the railway and woodland beyond to the east, and Hampton Lovett Industrial Estate to the west of Kidderminster Road. Visual impacts of the proposal are therefore limited to the immediate site context and do not extend to the wider landscape.

### Other Matters

6.12 There are no issues of concern contended between the parties relating to the following matters:

- Accessibility to various services and facilities by sustainable modes of transport.
- Access, traffic impact and/or highway safety - it is agreed that the residual cumulative impacts of the proposal will not cause a 'severe' impact (in the context of paragraph 32 of the NPPF). The local highway authority raises no objection to the proposal.
- Flood risk and drainage – it is agreed that, whilst there is an area of higher flood risk to the south of the site, no development is proposed in these areas and the development would be located in Flood Zone 1. The reserved matters application could provide a layout that would be acceptable in flooding terms.

6.13 It is also agreed that the following represent benefits of the proposal (the amount of weight to be attributed to each one will vary between parties):

- The provision of increased choice and competition and contribution towards the continued supply of housing, in the context of the need to significantly boost the supply of housing;
- The provision of affordable housing,
- The site is located to the north of Droitwich;

- The provision of an area of public open space, which is currently not accessible to local people;
- Enhancements to the landscape structure on the site, through woodland management, meadow grassland and shrub and tree planting.
- The creation of construction jobs;
- Sustaining and improving the vitality and viability of the area in the long term through the associated increase in residents in the area; and
- Net biodiversity enhancement through habitat creation.

## **7. Matters in dispute**

7.1 The following are the matter between the parties. They comprise the 'main matters' for the appeal.

### Spatial Strategy

7.2 Both parties disagree regarding the degree of conflict with SWDP 2 in relation to spatial strategy.

### Landscape Impacts

7.3 The parties disagree the impact which the scheme would have on the character, appearance and amenity of the landscape. The Council maintains that the proposal would conflict with SWDP Policy 25. The appellants dispute this.

### Impact on Heritage Assets

7.4 The Council considers that the appeal scheme would cause harm to the significance of the Church of St Mary. The Appellants contest this.

7.5 The Council therefore considers that all of the 3 above matters represent the adverse impacts of the proposal.

### Affordable Housing

7.6 The Council contests that the provision of 50% affordable housing should attract significant weight.

### Design

7.7 The Council contests that the indicative layout and pattern of development would respect the character of the area and heritage assets.

## **8. Suggested Conditions and Section 106 Matters**

- 8.1. The Appellant intends to submit a legal agreement during the determination of the appeal to ensure the contributions sought by Wychavon District Council are secured and delivered.
- 8.2. The Appellant and Council will seek to agree an appropriate list of conditions in advance of the Inquiry to aid the Inspector in the determination of this appeal.