

Appellants: Beechcroft Land Ltd & Henry Bouskell

Local Planning Authority: Wychavon DC (ref W/22/00201/OUT)

Land North of Droitwich Spa

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CLOSING SUBMISSIONS ON BEHALF OF THE LOCAL PLANNING AUTHORITY

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Introduction

1. These closing submissions should please be read alongside the Opening Statement [CD14.10]. Repetition is avoided in the interests of brevity. The “main issues” at the close of the inquiry remain those identified at the opening. These closing submissions will consider each in turn.

Main Issue 1: The effect of the proposal on the character and appearance of the area having particular regard to the landscape.

2. It is useful at the outset to establish the extent of the difference of opinion between Mr Potterton (for the Council) and Ms Ede (for the Appellant). Both consider the matter at the site and a wider level.
3. At the Site level, Mr Potterton finds it has a high sensitivity which when coupled with a high magnitude of change results in substantial adverse harm in Y1 falling to moderate in Y15. Ms Ede found a low or low-medium sensitivity<sup>1</sup> and a high magnitude of change resulting in minor/moderate adverse effects in Y1 reducing as the landscaping scheme matures.
4. At the wider level, Mr Potterton found “limited harm” (proof #6.6). Ms Ede found “very little change”. Both experts confirmed in oral evidence that there was little (if anything) between them, and that their differences were confined to the site-level assessment.
5. It would appear that they key difference between the experts in the site-level analysis is the issue over the sensitivity of the site.
6. An assessment of the “sensitivity” of a landscape combines judgments as to its susceptibility to change and the value attached to it [GLVIA3, #5.39]. This judgment is

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<sup>1</sup> Her proof adopts low from the LVA (proof #1.15, 3.19, 3.26, 3.50, 5.12); but CD14.8 AddSoCG resulted in a updated low-medium assessment.

then considered alongside the magnitude of the landscape effects in order to arrive at a judgment as to the overall significance of the effects.

7. The Appellant's assessment of site sensitivity is founded in the LVA [CD1.9a]. It consistently described the sensitivity of the site as being "low" (see #1.13, 4.11, 4.17, 4.18-19). Similarly Ms Ede's "low" sensitivity in her proof comes from the land cover parcel ("LCP") analysis (see pages 22 & 17).
8. The appeal site covers two LCPs:
  - a. MW118.2c comprising the Industrial Estate, the A442 road, Doverdale, and the northern part of the appeal site ("a/s") bounded by the railway line.
  - b. MW.118.2f - comprising the southern part of the a/s and land east of the railway line.
9. LCP were identified as being "individual, unique areas with their own identity and character" [CD5.2, #6.1.3 1<sup>st</sup>]. That is obviously not the case here. There is no sensible basis for regarding MW.118.2c as "a totally homogeneous unit within which there are no variations of attribute and within which the landscape is a visual entirety" [CD5.2, #6.2.6, 3<sup>rd</sup>]. The landscape of the appeal site is not now characteristic with the rest of the LCP in terms of urban impact. Even if there was once, there is no longer a significant impact on the a/s from the industrial estate - the vegetation provides an effective division (XX of Ede). Comparatively, the a/s is the most sensitive part of LPA 2c. It is also part of the setting of a Grade 1 listed building (see further under 'valued landscape' below).
10. Ms Ede' proof #3.23 adopts the LVA's sensitivity analysis based on maps (JE appx 3) assed in 2008 based on 2003 air photography. JE compares to more recent air photography (#3.28) but still does not alter the 'values' as a result of site assessment (#8.22a). LCASG [CD5.2, #4.2.3, #4.3.1 4<sup>th</sup>, #5.3.12] emphasises the importance of site visit assessment.
11. The Council submits that Mr Potterton's "high" is to be preferred. The a/s reads much more like the landscape to the east in LCP 2f rather than the bulk of LCP 2c to the west. Mr Potterton is correct - the a/s would not be in LCP 2f if reassessed today based on a site visit.
12. Relevant to the sensitivity analysis is the issue of whether the a/s is a "valued landscape" for the purposes of NPPF #174(a). It is the case that the Council did not raise this specific issue at the last inquiry - on that basis it is no surprise that the previous inspector did not consider the matter. Mr Potterton was not involved in the previous process and brings his expertise afresh.
13. Both experts have had regard to the matters mentioned in Box 5.1 of GLVIA3. But since the last inquiry TGN 02/21 [CD5.5] has been published. The Appellants play down its importance. However, Ms Ede was on the working group that assisted the authors [proof #2.3] [TGN p(iv)]. The TGN states that it was prompted by the need for guidance on the planning systems assessment of "valued landscape" [#1.1.2]. to supplement existing advice [#1.3.1] for use assessing planning applications [#2.1.1]. It therefore also sets out "best practice" alongside GLVIA3 [Ede proof #2.20].

14. The Council asks (rhetorically) why was it written if it does not add anything to Box 5.1? It can only be because the profession judged that there was a need for further clarifying guidance (agreed by Ede in XX). Box 5.1 not comprehensive or restrictive [TGN #2.3.3]. The TGN takes into account results from appeal decisions, court judgments & practitioner experience which are incorporated into Table 1 [#2.3.4]. Table 1 sets out a range of factors that can be considered and potential indicators of value [#2.4.1]. Changes from Box 5.1 [2.4.2] including the splitting of Conservation interests into natural and cultural heritage. Singled out, in particular are “Landscape which contributes to the significance of heritage assets, for example forming the setting of heritage assets (especially if identified in specialist studies)” and “Landscape which offers a dimension of time depth” - historic field patterns, railings, kissing gate, historic rights of way.”
15. It is obvious that the TGN is now to be taken into account in assessment of value and therefore sensitivity. Mr Potterton (proof #5.12 - 5.16) sets out his assessment of the factors in Table 1 of the TGN. If he is right (which the Council submits he is) then the implications for this appeal are:
  - a. There is a further difference of opinion between Mr Potterton and Ms Ede which is relevant to the assessment of the sensitivity of the a/s and thus the significance of the landscape effects at a site level.
  - b. NPPF 174a) provides that “valued landscapes” are to be protected and enhanced rather than simply recognised in planning balances. It is submitted that the proposal neither protects nor enhances the Valued Landscape. This adds to the weight to be given to landscape character harm in the overall planning balance.
16. Also relevant to this main issue is the effect on settlement pattern. Ms Ede (proof #3.41+) seeks to ‘link’ the proposed development to the pattern at Droitwich. However she accepted in XX that the development would not read as an extension to Droitwich and that there is a policy “significant gap” between Droitwich and Hampton Lovett [see CD4.22]. The purpose of the significant gap is to protect the character and setting of settlements, maintaining a clear separation between smaller settlements and urban areas to retain their individual identity, in order help avoid coalescence and retain existing pattern [CD4.1, p50 #8, p298]. Therefore Ms Ede was right to accept in XX that the impact on settlement pattern must be judged against the pattern at Hampton Lovett. She also accepted in XX that the industrial estate which bears the same name is not an integral part of the “settlement”, that Doverdale Park is not part of the settlement of Hampton Lovett and that “old” Hampton Lovett is much smaller. The truth is that the proposed development would result in an increase of 100% in the number of dwellings at Doverdale Park and is the equivalent of a new village/hamlet in scale.
17. The Previous Inspector was quite clear (reported at Potterton #6.26): “*An Estate of modern suburban dwellings would appear even more uncharacteristic, being at odds with those mobile homes, the agricultural land, the dispersed dwellings and the linear housing along The Forest and other wayside dwellings*”. The current scheme might be marginally different in number and layout but remains equally uncharacteristic.

18. Doverdale's history began as a WW2 D-Day holding camp and later became a POW camp [CD11.12, p8; p10, 2<sup>nd</sup>]. It is therefore a historical relic in the landscape and an anomaly, albeit one with its own sense of place. It has evolved into a park home complex lived in by mainly older people [CD11.3, p13] who have chosen it for its tranquillity of living [CD11.12, p1, 3<sup>rd</sup>]. This proposal is not a case of the generic growth of an existing settlement.
19. The Appellant makes much of the mitigation measures set out in the landscaping scheme in Ede appx 2. The Appellant focuses on hedgerow and tree planting and notes that these are key characteristics of the landscape type based on LCA sheets (Ede appx 1) for Principal Timbered Farmlands. But none of them advise achieving improvements to primary characteristics by building 100 houses which are themselves not in keeping with the landscape or its settlement pattern character. This was a point also made by the previous inspector at #23.
20. Visual impact is something that an inspector is well placed to judge from a site visit. We will content ourselves with but a few observations in writing. The Appellant's LVA and Ms Ede (who adopted it) seems to have underplayed the sensitivity of key receptors. For example, "low" for Doverdale Park [VP11].
21. The Appellants also seem to want to play down the effects on the users on the Monarch's Way. Monarch's Way is not one of NE's National Trails but it is locally and nationally promoted and is England's second-longest waymarked trail, exceeded in length - just - by the South West Coast Path. It follows, as closely as possible, the route taken by the future King Charles II, as he eventually fled to France following his defeat at the Battle of Worcester in 1651. The meandering 1,006km/625-mile route reflects the precarious situation in which the king found himself.
22. Ms Ede contends that the harm to users of the PROW would be limited. Under Cultural Heritage' in her table 3.1 she totally avoids discussion around the setting of the heritage asset, despite guidance telling her to consider it. It is not appropriate (Ede proof #5.22) to simply provide an alternative to it running through / alongside a new housing estate in the mistaken notion that this is an improvement. It needs to be historically correct.
23. Another matter which appears to have escaped the understanding of the Appellants is the relevance of the use of estate railings as a boundary feature. Their use and the fences which preceded them were deliberate. Somebody thought the views through them were important / ought to be seen. Otherwise they would have adopted the cheaper option of a planting / leaving in place a hedge. The Council has explained their importance (see Potterton #3.6-7; Hickie #3.18). It would plainly not be appropriate to regard hedge planting along The Forest as an appropriate landscaping response.
24. The Appellants aver that the effects will be more limited than those of the previous proposal (CP appx 2B, Fig 03 overlay; CD14.1 masterplans side-by-side). There is certainly less development now proposed and what is proposed has been 'pulled back' from The Forest. But this does not lead, so the Council submits, to overcoming the

harm and objections found by the previous inspector. All of the key judgments would remain. For example:

- a. The estate of modern suburban dwellings would still be at odds with Doverdale Park, the agricultural land, the dispersed dwellings and the liner housing along the Forest and other wayside dwellings (DL #20).
  - b. The impact on walkers along The Forest / Monarch's Way would still be significant (DL #21).
  - c. The proposed development would still result in a suburban character between the railway line and A442 (DL #21).
  - d. There would still be harmful visual impact and harm to the character of the settlement of Hampton Lovett (DL #22).
  - e. There would still be harm to the open countryside and landscape character of the area contrary to policy SWDP25 (DL #23).
  - f. The main points of the previous inspector's conclusion hold true.
25. The Appellant criticised Mr Potterton in XX as having 'abandoned' the county LCA assessments and guidelines. This is an unfair characterisation. Mr Potterton's legitimate point was that the LCA proceeded on the basis that the a/s was part of a homogeneous LCP which he gave cogent reasons for disagreeing with as being a valid up-to-date assessment. Secondly, the Appellants have made much of the working tool flow chart [CD5.2, p33] which indicates that "a positive response could be considered" (emphasis added). The flow chart needs to be read alongside the text on page 17 in #4.3. Any built development that could be considered needs to take into account whether it respects the inherent settlement pattern (p18, 1<sup>st</sup>), whether the site is "untypical" (2<sup>nd</sup>). The example given at #4.3.2a) is a small extension to an existing village, and at #4.3.2b) a small cottage. The appeal scheme is wholly different.
26. Finally, Ms Ede says (proof #1.26) that the site "is one of very few accessible areas around Droitwich which is not constrained by designation as registered historic park or Green Belt or other historic designation or cut off from the town by the M5. The landscape of the Appeal Site is thus of significantly lower sensitivity than most of the rest of the landscape which surrounds Droitwich and landscape and visual effects arising from the proposals would be substantially less than would arise from development of a similar scale in other parts of the local area."
27. This should not be afforded any material weight. First, making comparisons between the merits / demerits of potentially restricted areas for different reasons is essentially a task in plan-making. A s78 appeal inspector is not conducting a mini local plan examination. The pattern of growth at Droitwich in the SWDP is discernible from the policies map [CD4.22] and for the emerging SWDPR [CD4.23 & 4.25-27]. Plan-making has consistently avoided allocating this site - even though it has been considered [CD4.28 & 4.31 & 4.9b, p33].

Main Issue 2: The effect of the proposal on heritage assets particularly the setting of the Grade I listed Church of St Mary and the Grade II listed Lych Gate

28. In respect of a listed building, the statutory test in s66(1) [CD6.4] requires a decision-taker to have “special regard to the desirability of preserving the building or its setting”.
29. The NPPF sets out national policy tests which need to be kept in mind and applied:
- a. #199 - great weight is to be given to a designated asset’s conservation; the more important the asset, the greater the weight should be. (In this case we are concerned with a Grade 1 listed asset.)
  - b. #200 - any harm requires a clear and convincing justification.
  - c. #202 - “less than substantial harm” (“LTSH”) is to be weighed against public benefits (no case is advanced here for securing the optimum viable use of a designated heritage asset). The public benefits relied on here are essentially those associated with the provision of new ‘housing’.
  - d. #206 - this is not a case where development will better reveal the significance of a designated heritage asset. No existing ‘detracting’ features are proposed to be removed.
30. A finding of LTSH is not a less than substantial objection to the grant of planning permission. *Barnwell Manor* [CD8.2] at #29.
31. *Barnwell Manor* #28 reminds us that:
- “It does not follow that if the harm to such heritage assets is found to be less than substantial, the balancing exercise referred to in policies HE9.4 and HE10.1 should ignore the overarching statutory duty imposed by section 66(1), which properly understood (see the *Bath Society* case [1991] 1 WLR 1303, the *South Lakeland* case [1992] 2 AC 141 and the *Heatherington* case 69 P & CR 374) requires considerable weight to be given by decision-makers to the desirability of preserving the setting of all listed buildings, including Grade II listed buildings. That general duty applies with particular force if harm would be caused to the setting of a Grade I listed building, a designated heritage asset of the highest significance. If the harm to the setting of a Grade I listed building would be less than substantial that will plainly lessen the strength of the presumption against the grant of planning permission (so that a grant of permission would no longer have to be “wholly exceptional”), but it does not follow that the “strong presumption” against the grant of planning permission has been entirely removed.”
32. What is the setting of the designated heritage assets in this case? In XX Dr Edis agreed with Dr Hickie’s assessment as to:
- a. The definition of setting - see DH p10
  - b. The setting of the Church: DH Fig 9 at p16 was agreed. The previous inspector [CD7.1, #29] found the a/s was within the setting of the church. The same applies now.
  - c. The setting of the Lych Gate: DH Fig 16 at p22 was agreed

33. Here, there is agreed LSTH to the setting of a Grade 1 listed building and so there is a “strong presumption” against the proposed development.
34. The issue between Dr Edis and Dr Hickie is where on the scale of LTSH does the harm fall in this case?
35. Previous inspector #33 did not answer this question directly. It is the case that at #30 she agreed with the evidence presented to her by the Council [CD13.6] which was [#8.3] that it fell in “lower to mid range of the spectrum”.
36. However, there is now new evidence in respect of the importance of the rural setting of the church (see proof #4.6). This evidence comes from Historic England [CD11.1] which obviously thought it important enough to draw to the Council’s attention as a new material consideration in understanding the importance of the a/s as part of the setting of the church. Dr Edis’s attempt to suggest that it is not clear whether the consultation response is corporately endorsed by HE but was rather the personal opinion of the individual HE officer was bizarre.
37. The fact that new information might come to light is not a surprise to HE. Its own guidance [CD6.3, p3] states: “new information on heritage assets may alter what might previously have been understood to comprise their setting and the values placed on that setting and therefore the significance of the heritage asset.” (emphasis added). It also advises [p6, #11] that views which contribute more to the understanding of a heritage asset include “those with cultural associations” including those which became the subject of paintings. This is new, relevant information not before the previous inspector.
38. The experts giving evidence to this inquiry on both sides are also different to those heard by the previous inspector. Dr Edis accepted in XX that experts can legitimately differ in their judgments.
39. Dr Edis was critical of the methodology used by Dr Hickie - even though both are members of the IHBC and Dr Hickie’s methodology was based on a document endorsed by the IHBC [CD14.4].
40. HE gives advice on methodology (CD6.3, box at foot of p8) (emphasis added):

“Development proposals involving the setting of single and less significant assets and straightforward effects on setting may best be handled through a simple check-list approach and can usefully take the form of a short narrative statement for each assessment stage, supported by adequate plans and drawings, etc.

Cases involving more significant assets, multiple assets, or changes considered likely to have a major effect on significance will require a more detailed approach to analysis, often taking place within the framework of Environmental Impact Assessment procedures. Each of the stages may involve detailed assessment techniques and complex forms of analysis such as viewshed analyses, sensitivity matrices and scoring systems. Whilst these may assist

analysis to some degree, as setting and views are matters of qualitative and expert judgement, they **cannot provide a systematic answer**. Historic England recommends that, when submitted as part of a Design and Access Statement, Environmental Statement or evidence to a public Inquiry, **technical analyses of this type should be seen primarily as material supporting a clearly expressed and non-technical narrative argument that sets out ‘what matters and why’** in terms of the heritage significance and setting of the assets affected, together with the effects of the development upon them.”

41. Dr Hickie’s methodology (proof s5, p35) does just this. It contains ‘technical analysis’ and a ‘what matters and why’ narrative analysis. It seems to have come to something of a surprise to Dr Edis that anyone could reach the conclusion that a sub-urbanising development of 102 dwellings within the setting of and close to a Grade 1 listed country parish church in a small hamlet could cause harm towards the upper end of LTSH. The Council submits that Dr Edis’s assessment of “low” and “towards the bottom end of low” (proof #4.26) is the more surprising.
42. Dr Edis (#4.27) seems to have placed great reliance on the fact that a large portion of the setting will remain undeveloped and that public access to the retained part of the setting will be improved. Two points can be made:
  - a. This is contrary to the advice of HE. It advises [CD6.3, p2] “The contribution that setting makes to the significance of the heritage asset does not depend on there being public rights or an ability to access or experience that setting. This will vary over time and according to circumstance.” (See also p4 “Access and Setting”). Further, the new evidence strongly suggests that open views across the a/s were important in emphasising the importance of the church and former manor house to the social status of the landowner.
  - b. The Appellants now seem to be playing down the access that will be enjoyed in the ‘blue land’ immediately south of The Forest. What was once billed as a “substantial area” of new public open space (see Edis appx 2, #15) now seems to have been relegated to grazing land with a permissive path through it.
43. Although the housing has been set further back from the Church and Lych Gate from that previously proposed (about 30m further back - see Potterton appx 2B, Fig 03), the impact will still be readily apparent. Dr Edis’s ‘VO1’ photomontage in his appx 18 illustrates just how different 2-storey housing compared with park homes would be.
44. Wherever on the scale of LTSH this case falls, the harm that arises must be given considerable importance and great weight. There is a strong presumption against the proposed development to weigh in the planning balances.

Main Issue 3: Whether the Council can demonstrate a five-year supply of housing land and the extent of any shortfall.

45. The HSoCG [CD9.6] confirms at #2.14 that There is a 3.68 year supply in the District and 3.52 year supply in that part of the District that is not covered by the Wider

Worcester Area. Both planning experts have agreed in oral evidence that in this appeal the inspector should proceed on the basis that the supply is in the range 3.52 to 3.68 years, and that the benefit of boosting the supply of housing should be given substantial weight (see the table attached to the SoCG at CD 9.3).

46. Mr Instone has drawn attention to some factors that he says ‘temper’ the weight. It is agreed that the lack of a 5YHLS is likely to persist until the SWDPR is adopted. Precisely when that will happen is not certain, but it seems reasonable to assume that it will be submitted in Q1 2023, that a need for ‘main mods’ should be assumed, and that adoption will be at some point between Q1 2024 (Mr Instone) and Q1 2025 (Mr Tiley. However, as Mr Instone has pointed out, since the position on 5YHLS was crystallised this summer, the Council has responded positively in its application of the ‘tilted balance’ in planning applications, and in its approach as to whether extant appeals ought to continue to be resisted. There is therefore evidence that the Council is doing what it can to improve the HLS in the interim, albeit that the Council is not submitting to this inquiry that it will reach 5 years. All experts agree that the Council has a record of ‘hitting targets’ once set - this is evidenced by recent past completion rates which have in fact exceeded the ‘standard method’ local need figure. In other words, Wychavon is not an authority which is ‘asleep at the wheel’.
47. The consequence of there not being a 5YHLS is that the ‘tilted balance’ provisions at #11d)(ii) of the NPPF apply in the event that the ‘heritage balance’ at #202 and #11d)(i) indicate it should be - see further below.

Main Issue 4: Whether the site would be a sustainable location for the proposed development having regard to the development plan and national policies.

48. SWDP2 is entitled “Development Strategy and Settlement Hierarchy”. It is divided into lettered sections. “A” sets out principles (no priority is indicated) including meeting housing need and safeguarding the open countryside. “B” sets out a hierarchy against which windfall proposals (like the appeal scheme) will be assessed. Droitwich is in the second-highest tier. Hampton Lovett is in the bottom tier
49. “C” sets out the approach to proposed development on land beyond settlement boundaries (like the appeal site). It is to be “strictly controlled”. The appeal scheme does not fall within the identified exceptions in “C”, “F”, “G”, “H” or “I”. The appeal proposal is contrary to SWDP2 (Wakefield in XX).
50. SWDP25 - Landscape Character. Development proposals and their landscaping schemes must take into account the LCA and its guidelines, integrate with the character of the landscape, and conserve and where appropriate enhance the primary characteristics of the LCA and important features of the Land Cover Parcel. They should also take any available opportunity to enhance the landscape. While there is a dispute between the experts on the nature of the impact, the Appellant accepts some harm that results in a breach of SWDP25 (Wakefield in XX).
51. SWDP6 - Historic Environment. Requires development proposals to “conserve and enhance” heritage assets and their settings. “Conserve” means “do no harm to”. The

supporting text at #4 makes specific reference to surviving parish churches (such as at Hampton Lovett) and to their “diverse and important historic field systems” found in their settings. SWDP24 requires development proposals affecting heritage assets or their setting to be considered in accordance with the NPPF. Again, while there is a dispute between the experts on the nature of the impact, the Appellant accepts some harm that results in a breach of SWDP6 (Wakefield in XX).

52. Therefore, applying the policy that applies to the appeal site, the landscape policy and the heritage policy, the development plan is indicating a dismissal of the appeal.
53. ‘Normally’, the Appellant would then be looking to demonstrate other material considerations in order to justify the grant of planning permission. But here, policy SWDP1 has the effect of importing the most important ‘material consideration’ from the NPPF into the development plan - that is to say the presumption in favour of sustainable development (“PIFSD”) now found in #11 of the NPPF.
54. The first ‘balance’ is that found in #11d(i) - do the public benefits outweigh the harm to designated heritage assets? It is agreed that all the benefits listed in the table at CD9.3 are public benefits. Of course, there is a difference over the harm (see under main issue 2 above). If the inspector finds that the outcome of this balance tips in favour of the harm, then that will amount to a “clear reason for refusing the development proposed” and the dismissal of this appeal.
55. If, on the other hand, that is not the case, then the inspector will proceed to apply the ‘tilted balance’ in #11d(ii). This requires the consideration of the same benefits, but the addition of the non-heritage harm. In this case that is the adverse landscape (including settlement pattern) and visual effects (see above at main issue 1), the loss of 2.55 ha of best and most versatile agricultural land [SoCG #6.4], the conflict with the spatial strategy set out in policy SWDP2, and a development management decision that is not genuinely plan-led.
56. On the last point, it is agreed that the policies in the emerging SWDPR should be given limited weight. However, the evidence base is a material consideration. This appeal is not the place for a min-local plan examination comparing the merits of emerging sites to the appeal scheme (Wakefield in XX). But the inspector should take note that the Council and its two joint plan-making partners has a strategy for meeting housing need set out in the SWDPR from 2021 to 2041 and (in the case of the two new strategic settlements) beyond. The existing plan runs to 2030, but in accordance with #33 of the NPPF, the Council’s conducted a review of the local plan and decided, in 2017, that the SWDP should be updated. This they are now delivering and will adopt it well before the end of the current plan period. In other words, this is not a part of the country where the plan-led system is failing as a result of local planning authorities not keeping on top of their plan-making function.
57. So, the Council’s case on the various ‘planning balances’ is that:
  - a. The development plan indicates a refusal of permission and the dismissal of the appeal. This was also the conclusion of the previous inspector at #56 & 57

- b. The 'heritage / public benefits' balance indicates the same.
- c. If the 'tilted balance' falls to be applied, then the adverse impacts do significantly and demonstrably outweigh the benefits, and it too indicates dismissal of the appeal.
- d. There are therefore no material considerations that indicate that the appeal should be allowed.

#### Conditions and Obligations

- 58. The conditions are agreed [CD9.7], subject to the approval of the inspector.
- 59. There is one component of the planning obligation that is in dispute - the need for the claimed education contribution. The issue is what (if any) education infrastructure is likely to be funded by CIL so that any s106 contribution would be (wholly or in part) 'double dipping'? The answer was explained in the round-table session. The Reg 123 list was removed in 2019 when the Regulations were amended to delete the requirement for such a list - the Council does not allocate money from CIL to education projects but relies instead on s106 contributions (see CD10.4, pdf p18, 2<sup>nd</sup>#). The basis for education contributions is now the 2019 SPD [CD4.5] and the Worcestershire County Council Education Planning Obligations Policy [CD10.4.3d]. There is therefore no 'double dipping'.

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