

## **Land to the North of Droitwich Spa – Appeal Reference APP/H1840/W/22/33205934**

### **Note on relevance of appeal decisions/judgements**

#### **Land to the North of Droitwich Spa (Appeal Ref: APP/H1840/W/18/3218814 (Core Document 7.1))**

This is the previous appeal decision on the application site and the Council's witnesses refer extensively to this decision. It is agreed at paragraph 3.4 of Planning Statement of Common Ground that both parties accept that the previous decision forms a material consideration in the determination of this appeal.

#### **Leigh Sinton Appeal Decision (Appeal Ref: APP/J1860/W/21/3289643) (Core Document 7.2)**

This appeal is referenced at paragraph 4.23 of Mr Instone's Proof of Evidence. No particular paragraph is relevant to this appeal. The appeal decision date is 5<sup>th</sup> July 2022 and it is the date that Wychavon District Council determined it did not have a 5 year housing land supply. This is common ground between the Council and the appellant.

#### **South Lakeland DC v Secretary of State for the Environment [1992] 2 AC 141 (Core Document 8.1)**

This judgement is referenced in paragraph 5.9 of Mr Instone's Proof of Evidence in the context of Section 66 (1) of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990. Reference is made to the final two paragraphs of this judgement and that the ordinary meaning of 'preserve' as a transitive verb is 'to keep safe from harm or injury' and that character or appearance can be said to be preserved where they are not harmed.

#### **Barnwell Manor Wind Energy Ltd v. East Northamptonshire District Council, English Heritage, the National Trust and the Secretary of State for Communities and Local Government [2014] EWCA Civ 137) (core document 8.2)**

This judgement is referenced in paragraph 5.9 of Mr Instone's Proof of Evidence. Reference is made to paragraph 29 and that that Parliament's intention in enacting section 66(1) was that decision-makers should give "considerable importance and weight" to the desirability of preserving the setting of listed buildings when carrying out the balancing exercise and that a less than substantial harm to the setting of a listed building does not should not be treated as a less than substantial objection to the grant of planning permission.

#### **Monkhill Ltd v SSHCLG [2021] EWCA Civ 74 (core document 8.3)**

This judgement is referenced in paragraph 5.14 of Mr Instone's Proof of Evidence and specifically paragraph 45 which confirms that when less than substantial harm is identified to designated heritage assets consideration of the proposal 'falls within the reach of paragraph 11d)i' of the NPPF.