

Application Number	W/22/00201/OUT		
Site Address	Land At (Os 8894 6544), Kidderminster Road, Hampton Lovett		
Description of Development	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.		
Case Officer	Jay Singh	Applicant	Beechcroft Land Ltd & Henry Bouskell Trustees of the Wimbush Droitwich Settlement
Parish	Droitwich Spa Hampton Lovett	Agent	Mr Guy Wakefield
Ward Member(s)	Cllr N Wright Cllr Tony Miller Cllr Ms Jennifer Chaudry Cllr George Duffy		
Reason for Referral to Committee	Major application and departure from development plan/ N/A – Delegated Decision	Expiry Date	5 May 2022
Key Issues	<ul style="list-style-type: none"> - Principle of the development - Landscape character and visual impact - Historic environment - Design - Access and highway issues - Biodiversity - Flooding and drainage - Renewable/low carbon energy production - Affordable housing - Planning obligations - Other matters - Planning balance 		
Recommendation	Refusal		

OVERVIEW

This planning application is currently subject to a non-determination appeal. This means rather than the Council making a decision on the application, a Government Approved Planning Inspector from The Planning Inspectorate will consider all of the information and therefore issue the decision on the acceptability of the proposals.

The purpose of this delegated officer report is to set out the Councils stance for the Appeal. As detailed further below, in summary, the Councils position is that the appeal should be dismissed on the main grounds of heritage and landscape harm that would not be outweighed by the benefits of the proposal, as such the proposal does not constitute sustainable development

BACKGROUND

The application site was subject to a previous application for development under application 17/01631/OUT relating to an *'Outline planning application for the erection of up to 144 dwellings (including 58% affordable), access and associated works. Matters relating to Appearance, Landscaping, Layout and Scale are reserved for future consideration'*. The application was refused permission on 18 June 2022 and a subsequent planning appeal was dismissed under appeal decision reference APP/H1840/W/18/3218814 on 28 January 2020. In dismissing the appeal, the Inspector noted, amongst other matters, that:

- the proposed development, as a whole, would be harmful to the open countryside, landscape character, and upon the character of the settlement of Hampton Lovett
- there would be harm to the Church of St Mary. In terms of the Planning (Listed Buildings and Conservation Areas) Act 1990 the proposed development would fail to preserve the setting of the Church of St Mary.
- The benefits of the proposal, would not outweigh the harm identified.

SITE DESCRIPTION

The site is situated approximately 4km to the north-west of Droitwich Spa, immediately to the east of the A442 (the Kidderminster Road). To the west the site is bound by the A442 and an existing Doverdale Park development (mobile homes). The northern boundary is delimited by a minor road (The Forest) and low-density housing. There are also metal estate railings along the whole of the northern boundary of the site (along The Forest) - and a metal estate railing kissing gate immediately opposite to the church. To the east of the site is a railway line, where trains take approx. 14 seconds to pass the site and there are clear views into the site from both directions. To the south/southeast is the Elmbridge Brook floodplain. The site wraps around a caravan park home site of approximately 100 units.

The site, which covers approximately 10 hectares, lies approximately 100 metres outside the development boundary for Droitwich and is currently used for agricultural purposes. To the south-west of the site lies a small-wooded area. Saint Mary and All saints Church, Grade I listed, adjoins the site in the north-western corner. The site is not within but adjacent to the Green Belt, which lies to the east of the site. The southern part of the site is designated as a Significant Gap. This part of the site is also within Flood Zone 3 and is at high risk of fluvial flooding. It is also identified as being susceptible to surface water flooding.

DETAILS OF PROPOSAL

The proposal is an outline application with all matters reserved apart from access for up to 102 dwellings. An Illustrative masterplan (K729-30E) shows a proposed residential development providing a range of homes of 1-5 bedrooms in detached, semi-detached and terraced configurations. The indicative scale of the dwellings would range from single-storey up 2.5 storey. The proposed appearance would draw on the local vernacular and materials using traditional and/or contemporary design approach.

A primary access point is located in the northern section of the site off the A442 with a pedestrian access point. This access point links to a spine road that goes through the site off which a hierarchy of lower category roads, lanes and mews are suggested. At the site entrance, the indicative layout plan shows an area of green space.. A further area of greenspace is provided as a buffer to the Forest and the Grade I Listed Church. To the south, the development is outside of the Significant Gap. A new pedestrian and cycle link would be created to the A442. The applicant considers the indicative layout has been created to allow key views, vistas and axial views through to the St Marys Church tower, scale, lynch gate and new green spaces.

The indicative layout suggests there would be a variety of green space integrated into the scheme providing biodiversity and new screening for the development when viewed from the outside. The retained field to the north of the development would remain as grazing land. The land to the south would be retained for wildflower grassland and native tree and shrub planting. It would contain the SUDS attenuation basin with potential wet land habitat.

This application seeks to address the concerns raised by the Planning Inspector in the previous appeal decision as explained further below. It essentially alters the redline boundary to ensure that an area of pastureland is retained to the north of the site in order to create a greater separation between The Forest and St Mary's Church, and the proposed development which is reduced from 144 dwellings to a maximum of 102 dwellings. To the south, woodland areas have been excluded from the site boundary, but the full extent of the grassland extending to Elmbridge Brook is included to benefit amenity and ecological considerations.

The following documents have been submitted as part of the application:

- Illustrative Site Plans
- Planning Statement
- Housing Land Supply Statement
- Landscape and Visual Impact Assessment
- Ecological Assessment
- Biodiversity Net Gain Assessment
- Arboricultural Report
- Contaminated Land Report
- Archaeological Assessment
- Transport Assessment
- Travel Plan
- Flood Risk Assessment
- Sustainable Drainage Statement
- Health Impact Assessment
- Water Management Statement
- Noise Impact Assessment
- Heritage Assessment
- Air Quality Assessment
- Design and Access Statement (including Energy Statement)

PLANNING POLICY AND LEGISLATIVE FRAMEWORK

The Development Plan

The determination of a planning application is to be made pursuant to section 38(6) of the Planning and Compulsory Purchase Act 2004, which is to be read in conjunction with section 70(2) of the Town and Country Planning Act 1990. Section 38(6) requires the local planning authority to determine planning applications in accordance with the development plan, unless there are material circumstances which 'indicate otherwise'. Section 70(2) provides that in determining

applications the local planning authority "shall have regard to the provisions of the Development Plan, so far as material to the application and to any other material considerations."

The development plan consists of the South Worcestershire Development Plan 2016 and the Waste Core Strategy for Worcestershire - Adopted Waste Local Plan 2012-2027 and any made Neighbourhood Plans.

South Worcestershire Development Plan (SWDP)

Wychavon, in partnership with Worcester City and Malvern Hills District Councils, adopted the SWDP in February 2016. The following policies are relevant to the application:-

SWDP1 (Overarching Sustainable Development Principles)
SWDP2 (Development Strategy and Settlement Hierarchy)
SWDP3 (Employment, Housing and Retail Provision Requirement and Delivery)
SWDP4 (Moving Around South Worcestershire)
SWDP5 (Green Infrastructure)
SWDP 6 (Historic Environment)
SWDP7 (Infrastructure)
SWDP13 (Effective Use of Land)
SWDP14 (Market Housing Mix)
SWDP15 (Meeting Affordable Housing Needs)
SWDP20 (Housing to Meet the Needs of Older People)
SWDP21 (Design)
SWDP22 (Biodiversity and Geodiversity)
SWDP24 (Management of the Historic Environment)
SWDP25 (Landscape Character)
SWDP26 (Telecommunications and Broadband)
SWDP27 (Renewable and Low Carbon Energy)
SWDP28 (Management of Flood Risk)
SWDP29 (Sustainable Drainage Systems)
SWDP39 (Provision for Green Space and Outdoor Community Uses in New Development)
SWDP48 (Droitwich Spa)

The Waste Core Strategy for Worcestershire - Adopted Waste Local Plan 2012-2027

The Waste Local Plan was adopted by Worcestershire County Council on 15 November 2012 and is a plan outlining how to manage all the waste produced in Worcestershire up to 2027. The following policies are relevant to this application:

WCS1 (Presumption in favour of sustainable development)
WCS17 (Making provision for waste in new development)

Government Policy

National Planning Policy Framework
Planning Practice Guidance

Other Material Planning Considerations

South Worcestershire Design Guide Supplementary Planning Document (March 2018)
Worcestershire Local Transport Plan 4 – Streetscape Design Guide

Relevant Legislation and regulations

Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended)
Wildlife and Countryside Act 1981
Town and Country Planning Act 1990 (as amended)
Human Rights Act 1998
Section 17 of the Crime and Disorder Act 1998
Planning and Compulsory Purchase Act 2004
Natural Environment and Rural Communities (NERC) Act 2006
Planning Act 2008
The Conservation of Habitats and Species Regulations 2010
Community Infrastructure Levy Regulations 2010 (as amended)
Equality Act 2010
Flood and Water Management Act 2010
Localism Act 2011
Growth and Infrastructure Act 2013

Five Year Housing Land Supply (5YHLS):

The latest position is that SWC can no longer demonstrate a 5YHLS. A further update will be provided in the Statement of Case.

The National Planning Policy Framework and the ‘Tilted Balance’:

In light of SWC no longer being able to demonstrate a combined 5YHLS, the decision must be undertaken in accordance in line with Paragraph 11d of the NPPF whereby:

For decision-taking this means:

where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date⁸, granting permission unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed⁷; or*
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*

With the relevant footnote 8 indicating:

This includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 74).

With footnote 7 indicating:

The policies referred to are those in this Framework (rather than those in development plans) relating to, amongst others, designated heritage assets.

RELEVANT PLANNING HISTORY

17/01631/OUT - 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.

Refused 18 Jun 2018 - Appeal Dismissed

Pre-application Engagement

The applicant engaged in pre application discussions with the council (reference 17/00474/PA; Proposed development of up to 181 dwellings including 50% affordable housing, landscaping and other associated works. 20.4.17)

CONSULTATION RESPONSES

Cllr Tony Miller – No comments received

Cllr George Duffy - No comments received

Cllr Nicholas Wright – No comments received

Cllr Jennifer Chaudry – No comments received

Droitwich Spa Town Council: Objection on the following grounds:

To recommend refusal for the following reasons:

1. In recognition of the number and strength of neighbours objections.
2. That the opinion of WCC Highways is currently outstanding.
3. To accord with the documented concerns from WRS regarding potential contaminated land issues.
4. That the proposals are not within the existing street scape of the area. There is no nearby "designed built housing".
5. Traffic density concerns and impact on the existing infrastructure. There is no allocated provision towards pedestrian connectivity and improvements. The need for investment contribution towards links with the Town Centre was referenced - especially the urgent need for improved pedestrian crossing infrastructure at the nearby Westlands A38 roundabout which is strategic to the links with the proposed site.
6. Loss of valuable Agricultural land and open countryside.

Hampton Lovett Parish Council: Objection on the following grounds:

'The background of these comments are made against a situation where on the 28th January 2020 the Secretary of State had appointed a Barrister Ms Zoe H.R. Hill to oversee an Appeal for building 144 houses on the site where the developer is now looking to erect 102 dwellings providing additional spaces within the development site.

As the Appeal hearing went on for over a week many of the reasons for rejecting this application even in its reduced form have been well aired in public and remain the same.

There is however a need to re-inforce certain of the points that were raised previously that in the last two years have been left un-attended.

These are:-

1. The extension of the sewerage system which runs from the Hampton Lovett Industrial Estate under the A422 and along Elmbridge Brook (North side). This system has raised manholes, to prevent flood water running into the sewerage system when the Brook floods. In an attempt to convey the seriousness of the inadequacy of this system in the last 5 weeks Severn Trent have

had to attend these manholes as the sewerage inside them has lifted the heavy concrete covers off the top of them and spilt sewerage into the low lying land and the Elmbridge Brook. Councillor Bob O Sullivan who lives close by has been monitoring this situation closely with Severn Trent.

2. The Secretary of State accepted that the development was in open Country side and not in any form of Urban Setting.

3. Any development whether the original or the proposed new development both take away the strategic gap which was always a part of the long-term plan to prevent Droitwich spreading Northwards towards Cutnall Green. If this was to disappear the development Northwards would continue every time there was a need for more employment land or more housing land.

4. We need to clarify for correctness of detail that areas where land contamination has taken place which are are following reasons:-

A) A suggestion of a tank site is where the government installed the sewerage farm for the prisoner of War Camp which was built in the early 1940's on 10 acres of land requisitioned from the local farmer. This is, how the site came into existence, (not as a workers hostel). The M.O.D / Environmental and Worcester Regulatory Services must have a process for processing these redundant sites so that they do not become a nuisance although this could become very costly.

B) The other area which has now been taken out of the current proposal is the old Marl hole which formed a pond in the site and became filled with rubbish. This pond area needs to be cleared of degraded materials, which produces unacceptable gases for healthy living.

C) A grid survey needs to be carried out to ensure that the builders of the Mobile Site or a local farmer have not buried any other materials within the development site which can produce unacceptable gases.

5. The official documentation both in the original and in the current documentation mis-represents the Railway Line which forms the boundary to the site between it and the A442. The Railway Line is not dis-used but is a high quality well maintained railway track and routinely carries Nuclear Power packs to and from their site of use to Sellafield where they are re recharged with new Nuclear fusion material.

6. On line shopping is now well ingrained within the population and hence much care needs to be taken over the sizes and type of new entrances into any proposed new development as the Amazon traffic continues to increase on and off the same section of the A442.

7. To the best of the knowledge of the Parish Council and their District Councillor Wychavon have not fallen behind in supplying the correct number of houses on numbers which have been signed off by the government and which are still legally binding upon the District Council.

The Parish Council rejected the Application as it had previously backed up by the Public Enquiry in 2020 particularly as in the two year period the service providers and the developers have not carried out any work to clear what are basic problems identified in our list above. The above should be taken together with the comments from Cllr. Christine Ellson-Evans who is the Parish Councillor for Doverdale Park Homes'

WDC Landscape Officer: Objection on the following grounds:

Acknowledge the reduction in numbers of dwellings (102 as opposed to 144 in the previous scheme) and that development is now proposed to be set back further from The Forest. However, previous landscape and visual concerns that were raised for the last application, which were examined at appeal, apply equally to this latest proposal. Whilst noting the separation distance

now proposed from The Forest/Monarch's Way, dwellings would still be visible in views from there as well as from the A442 – and the impact on landscape character and the character of the settlement pattern of Hampton Lovett would be equally harmful in this latest iteration. The proposals do not accord with Policy SWDP25 for the reasons previously outlined.

WDC Conservation Officer: Objection on the following grounds:

Proposal would result in “harm to the significance” of designated heritage asset through development in its setting. Notwithstanding that the level of harm would be considered “*less than substantial*” in the terms set out in the NPPF, this does not mean that the harm would be unimportant. The harm is at the upper end of “*less than substantial*” because there would be a comprehensive change in the rural settings of the Grade I Church and Grade II Lychgate. The Framework requires that great weight should be given to the conservation of designated heritage assets. The public benefits would not outweigh the identified heritage harm. As such, the proposal would conflict with Policy SWDP 6, Policy SWDP 24 and those policies of the Framework relating to the historic environment.

WDC Natural Heritage Officer: No objection subject to conditions securing Construction Environment Management Plan (CEMP), soft landscaping, tree protection measures, ecological design strategy, landscape and ecological management plan and lighting strategy.

WDC Tree Officer: No comments received

WDC Archaeology: No objection subject to conditions securing a written scheme of archaeological investigation.

WDC Carbon Reduction Officer: No comments received

WDC Housing – No objection. Proposal to provide 40% Affordable Housing (41 units). Request 27% of all affordable housing to be first homes (11). Remainder of AH to be 73% social rented (30 dwellings).

Worcestershire Regulatory Services (WRS) (Noise): No objection subject to noise mitigation measures agreed at the detailed design stage and the implementation of a construction management plan which can be secured via planning condition.

WRS (Contaminated Land): No objection subject to conditions to mitigate the potential risks of contamination within the site.

WRS (Air Quality): No objection subject to air quality mitigation measures relating to electric vehicle charging points, low emission boilers and cycling parking being secured.

Lead Local Flood Authority: No objection. Overall the outline scheme is acceptable, however, it is essential that there is minimal flood risk at the access and egress points, and this must be included in the detailed design.

WDC Land Drainage Engineer: No objection. The proposed application site is in flood zone 1. However, there is an isolated part of the site in the north-west corner which is affected by surface water flooding. Whilst the access into the site is in this location, it has been noted that no built development will take place within this area. The design and drainage of the access will help eliminate future surface water flooding. Surface water will be discharged to an attenuation pond with a restricted outfall to the adjacent Elmbridge Brook.

County Highways Authority: Following receipt of additional information, no objection subject to conditions to secure road safety audit, residential travel welcome packs, construction management

plan, electric vehicle charging points, cycle parking and s106 sustainable travel obligations of £360,000 towards expansion of local bus services, and £4536 towards community transport for elderly and disabled.

Environment Agency: No comments received.

Severn Trent Water: No objection subject to conditions securing details of foul and surface drainage and implementation.

Historic England: No comments received.

Network Rail: No comments received.

Natural England: No comments received.

Forestry Commission England – Informative advice provided on protecting Ancient Woodland.

Open Space Society: No comments received.

Worcestershire Wildlife Trust: No comments received.

Woodland Trust: No comments received.

Worcester Woods County Park: No comments received.

Ramblers Association: No comments received.

British Horse Society: Comments - the site is bounded by public bridleway used by horse riders - seek to ensure no adverse impact on rider safety during and after construction, and other bridleways are not damaged and rider access is preserved.

Droitwich Spa Civic Society: Objection on the following grounds:

The Droitwich Spa Civic Society would object on principle that the site does NOT appear to be in the current SWDP considerations for development nor was it in the earlier 2006 list of sites. It seems too large a development, in its present form, to be considered a 'windfall site', thus we would wish it to be included in the SWDP before any detailed application might be made. It also appears that an earlier, larger housing development proposal was rejected or withdrawn, so discussions may be in hand, somewhere.

Although this is an outline application at this stage (only for access), we note, however, that sites north of Hampton Lovatt church are being designated for future employment land. We therefore would like to make the following comments in the possible expectation that some residential development may eventually be agreed:

We appreciate the protection, by separation, of the environs of the historic church, with a green and frontages facing it. In view of the increased accessibility, protection from the travelling community may be appropriate (ditch between the path & road or beyond around the green). Also, the maintenance of the green woodland and small open space south-east to the Berry Hill industrial site.

We note that the housing wraps tightly around the Park Homes site and that has differing planning and construction regulations, with the residents tightly governed by their leasing covenants.

Of particular note is that the legal separation between their 'habitable room' windows and others

AND particularly to the boundary fence is far more lax than normal planning requirements. We note and have observed that the park homes are very close to their open mesh boundary fence, benefitting from the open field views. We are thus concerned that any possible development either facing these Park Homes or screening them will not meet the planning distance requirements between 'habitable windows', nor from the Park Home windows to any fixed or grown/growing screening, private/public service area or footpath.

WDC Head of Projects (off-site formal sports provision) – Whilst at outline stage, a formula-based calculation would be applied, providing:

- Up to £61,076 to be used local leisure provision (built facilities) and
- up to £236,070 towards off-site formal sports pitches.

NHS Clinical Commissioning Group – Request £38,640 towards primary care provision.

Worcestershire & Herefordshire LMC Ltd Local Medical Committee – No comments received.

Worcestershire Children First – As the proposal is in outline form, there will be a formula based calculation for Education provision based on the final housing mix to be agreed at the reserved matters stage. This could potentially be up to:

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
SEND	-	£172,100	for improved special educational needs facilities
Total	-	£1,620,126	

Planning Policy (Open Space) – As the proposal is in outline form, there will be a 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:

Amenity and Semi-Natural Green Space	–	2479m ²
Equipped Play Space	-	216m ²
Civic Space	-	72m ²
Allotments	-	938m ²

REPRESENTATIONS RECEIVED

Objectors

55 Objections received including 1 on behalf of the Doverdale Park Residents Association

Supporters

No representations in support of the scheme received.

Representations Made

The material planning objections raised have been summarised by the case officer to include:

Loss of Light/Overshadowing – insufficient information to demonstrate the proposal including proposed trees/hedgerows/soft planting would not have an adverse impact on existing properties by way of loss light.

Overlooking and Loss of Privacy – insufficient information to demonstrate occupiers of existing dwellings, taking in to account proposed heights, would not suffer unacceptable loss of privacy through overlooking.

Visual Amenity – the proposal would result in a significant loss of visual amenity to the rural landscape harming the living conditions and health of the occupiers of existing dwellings. The proposal would harm public views through the site. The supporting LVIA underplays the landscape and visual impact.

Access, Highway Safety and Traffic Generation – proposed access is unsafe, with insufficient visibility splays on to A442 which carries a significant heavy goods traffic, and further cumulative harm from traffic generation taking in account the proposed traffic (including servicing, deliveries), the proposed footpaths on the A442 are narrow and not extensive creating an unsafe environment for pedestrians including children travelling to school taking into account a lack of crossing facilities to access schools on the Westlands estate.

Proposed access width is too narrow and associated facilities such as cycle tracks, walking areas would are not demonstrated as acceptable. Transport statement does not consider ‘near misses’ and dangerous speeding on the A442.

Noise, Disturbance, Vibration, Air Quality and Health – Excessive noise, vibration and disturbance for existing residents from increased population, construction phase, and the coming and goings of traffic on the proposed perimeter access road with an area of tranquillity, excessive air pollution harming the health of elderly residents. Proposed air quality assessment does not consider impact from diesel trains using the adjacent trainline and elevated traffic speeds/volume on the roads. Inadequate information on type of heating/boiler systems. Insufficient information to demonstrate air and noise impacts can be mitigated for existing and proposed occupiers.

Fumes and Smells – proposal would result in increased fumes and smells for existing residents.

Layout and Density of Buildings – insufficient information to demonstrate the site is capable of accommodating a form of development that is acceptable in terms of design, density, appearance, materials, rural character, be compatible with design of Doverdale Park and would not harm the living environment of local residents. Lack of information of house sizes/heights in order to fully assess their environmental impact.

Nature Conservation – Insufficient information would not have an adverse impact on existing biodiversity within the site.

Ancient Woodland/Trees/Field boundaries – The proposal would destroy ancient woodland within the site and would result in inappropriate tree planting that would not be maintained properly. In addition, existing field boundaries in poor condition would not be maintained.

Archaeology – insufficient information to demonstrate the proposal would not have an adverse impact on potential archaeology within the site. Proposed surveys not undertaken in the correct areas.

Solar Panels – potential harm from solar panels relating to glare/reflection

Fear of Crime – increased potential for crime and anti-social behaviour associated with large urban estate type development and exacerbate existing local issues

Inaccurate plans – proposed site plan does not reflect existing properties with Doverdale numbers 97 – 99 and in particular number 28, which is in the top left-hand corner of the Park, creating inaccurate relationships

Fire Safety – Doverdale is constructed from wood with significant fire and safety restriction, proposed housing could result in significant fire risk e.g. from barbeques

Appeal decision – reasons for refusal applicable to the previously dismissed scheme are also applicable to this proposal in terms of heritage, archaeological impact, flooding/sewerage, loss of designated green space, biodiversity, landscape, settlement character, character and appearance of the area, loss of significant gap, traffic generation, loss of agricultural land, as such it should be rejected again. In addition cumulative traffic generation has increased since the previous scheme was dismissed.

Infrastructure – insufficient local infrastructure to support the development including local drainage capacity, school places and capacity within local healthcare facilities.

More sustainable sites – this in unallocated greenfield site and there are alternative, more sustainable brownfield locations for locating new housing development

Light pollution – the proposal would result in significant light pollution within the open countryside harming the rural character of the area

Heritage impact - the rural setting of the historic church will be irrevocably changed, despite any proposal to leave an area of 'pastureland' between the environmentally fragile church site and the proposed smaller-scale development.

Land contamination – risks of contamination including buried animal carcasses and potential anthrax

Climate change – the proposal would not contribute to meeting local climate change objectives

Floodrisk – the proposal would increase the risk of flooding within the site and locality including from the River Salwarpe

Local opposition – significant weight should be given to the strength of local opposition to the proposal, with over 78 objectors recorded from a local poll for those against and for the development

Local Plan – the site was considered as part of the local plan making process but was rejected as it was considered “A peripheral location, too removed”. The proposal would not accord with the development plan when considered as a whole contrary policies SWDP2, 21 and 25, and the NPPF.

Public Consultation – lack of public consultation on the application proposals

Public Safety – proximity of railway line unsafe for young children of future occupiers.

Boundary Changes – proposed change to remove Doverdale Park Homes from Hampton Lovett parish council into extended Droitwich town boundary not consulted upon.

Precedent – proposal would set a precedent for further housing development on the adjacent greenfield land

Housing need – the proposal would not meet or contribute to meeting the housing needs of the elderly and disabled, including necessary supporting social infrastructure, and would not meet the aims and objectives of the Governments levelling up agenda

Sustainable Development Principles – The proposal would not accord with core overarching

sustainable development principle set out in the local plan and NPPF

Location accessibility/sustainable travel – the proposal scores poorly in terms of locational accessibility and local facilities where future occupiers would be dependent on car borne modes of travel.

OFFICER APPRAISAL

The following material planning issues are relevant to this application:

- Principle of the development
- Landscape character and visual impact
- Historic environment
- Design
- Access and highway issues
- Biodiversity
- Flooding and drainage
- Affordable housing
- Planning obligations
- Planning balance and conclusion

Principle of the Development

Outside defined settlement boundary

Subject to other considerations set out below that would be considered in the planning balance, 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 should be strictly controlled. The proposed development would fail 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 contrary to provisions of South Worcestershire Development Plan (2016) Policies SWDP1, 2, 25 and guidance contained in paragraph 80 of the National Planning Policy Framework, which provides that development in the isolated countryside should be avoided unless there are specific circumstances as set out in paragraph 80 that the development accords with.

The proposal would therefore be considered unacceptable in principle due to its location outside of any defined settlement boundaries on undeveloped land. However, in light of SWC no longer being able to demonstrate a combined 5HYLS, as a starting point, the titled balance set out of paragraph 11d of the NPPF would be engaged and the conflict with Policy SWDP2 must be weighed in the overall 'planning balance' subject to Heritage, landscape and other matters set out further below.

Landscape Character and Visual Impact

Policy SWDP25 requires that development proposals take into account the latest Landscape Character Assessment and are appropriate to/integrate with, the character of the landscape setting.

The Councils Landscape Officer has considered the revised proposals and advised the concerns remain the same as for the previous scheme under refused application (17/01631/OUT) which was dismissed at the appeal. The various landscape concerns raised at that time were fully examined at Public Inquiry, with the Inspector acknowledging in her Decision the adverse impacts of development on this site on the landscape - including location in open countryside, adverse

impact on the dispersed settlement pattern of Hampton Lovett (both as identified for the Principal Timbered Farmlands Landscape Type, within which the site is located, and as is found on the ground in the locality), and adverse impact on views from The Forest (which also forms part of Monarch's Way Long Distance Footpath) and the A442.

The Inspector also acknowledged the Strategic Gap separating the site from the town of Droitwich, the existing settlement pattern of Hampton Lovett being of wayside dwellings, that the Hampton Lovett Industrial Estate across the Kidderminster Road *'does not prevent the appeal site from being perceived as countryside'*, the suburban character between the railway line and the A442 that would result from development on the site, and the presence of the adjacent mobile home park as a *'very specific and well-defined element'* with its own character, being *'the type of land use that can be found in rural locations and sometimes in the most scenic of places.'* The Inspector considered that *'the proposed development, as a whole, would be harmful to the open countryside, landscape character, and upon the character of the settlement of Hampton Lovett.'*

The Inspector also found *'development in this location would have a harmful visual impact upon the open countryside and upon the character of the settlement of Hampton Lovett'* and did *'not consider this to be appropriate to, or integrate with, the character of the landscape setting'*, and so The Inspector concluded that *'in this respect the proposal fails to accord with Policy SWDP25.'* The Inspector considered that despite benefits of the scheme, including landscape benefits and the provision of public open space, the *'harm to the character and appearance of the area, including the landscape harm,...is such that the appeal should fail.'*

The proposal now before us is not dissimilar to the proposed scheme examined at that appeal. The Landscape Officer acknowledges the reduction in numbers of dwellings (102 as opposed to 144 in the previous scheme) and that development is now proposed to be set back further from The Forest. Nonetheless, all of the Landscape Officer's landscape and visual concerns that were raised for the last application, and which were examined at appeal, apply equally to this latest proposal. Whilst noting the separation distance now proposed from The Forest/Monarch's Way, dwellings would still be visible in views from there as well as from the A442 – and the impact on landscape character and the character of the settlement pattern of Hampton Lovett would be equally harmful in this latest iteration.

It is also noted that The Landscape Officer, in her Proof of Evidence for the previous Inquiry, did refer to landscape value - but this was prior to the publication of Landscape Institute Technical Guidance Note (TGN) 02-21: Assessing Landscape Value Outside National Designations (Landscape Institute 2021). This guidance contains additional information around the criteria to be used to define valued landscapes to include 'Cultural Heritage' and cites the example of 'landscape which contributes to the significance of heritage assets, for example forming the setting of heritage assets'. The previous Inspector set out very clearly in her Decision Notice that this site was part of the wider setting of the Grade 1 Heritage Asset and did contribute to its significance. As such it is now considered that this site is a 'valued landscape' for the purposes of *NPPF 174(a)*.

Overall, 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 be 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). The harm identified would be of significant negative weight.

Historic Environment

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Listed Buildings Act) requires that:

"In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority...shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."

NPPF paragraph 200 states that any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification.

Where harm would be caused to the significance of a heritage asset, and the harm is assessed as being 'less than substantial' (and at the upper end of this range in this case), Framework paragraph 202 states that:

"this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use".

NPPF 199 requires that we place "great weight" on the conservation of heritage assets when considering the impact of development on the significance of a designated heritage asset.

Policies SWDP6 and SWDP24 likewise seeks to conserve and enhance the significance of heritage assets, including their significance.

The Church of St Mary

As considered under the previous appeal decision, the key heritage asset in this appeal is the Church of St Mary, a grade I listed building. It is a church dating from the C12, with C14-16 alterations and work of restoration in the mid C19. It is constructed of ashlar stone under a plain clay tile roof. The nave, of two bays, is the oldest part of the building, with a C14 chancel and C16 tower and porch. Later remodelling and restoration is particularly evident in the fenestration and roof. Internal fittings and features include the font, comprising a C14 base and C19 bowl, and the chest tomb of Sir John Pakington; indeed, the Pakingtons, who were responsible for much of the alteration and restoration, are evident in other memorials, including a reclining effigy of Sir John. There are also fragments of armorial glass dating to 1561. The interior, therefore, provides a wealth of historic features which demonstrate high quality materials and craft skills, display aesthetic and social and cultural values as well as being, in part, of great age. The exterior of the building is also important; it displays high quality architecture and changes through the ages. It has community significance as a building of ecclesiastical design and prominence and as a place to mourn those buried there and a place to enjoy other religious services, such as weddings or celebrating harvest festivals; the ecclesiastic relationship, and thus historical significance to the community, is not limited to that within the building.

The Church is the listed building, and whilst its great age is particularly important, its later elements are also of significance and value, as is its wider setting. The National Planning Policy Framework (the Framework) Glossary defines significance for heritage policy as being 'The value of a heritage asset to this and future generations because of its heritage interest. That interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting.

The associated buildings and structures such as the lychgate, Pakington Memorial, The Old Rectory, and the buildings on The Forest are not integral to the building itself, but they contribute significance to it by adding to understanding of the history of the building, its associations, values and relationships. For instance, the outdoor memorial to Lady Pakington (1841) whilst much later

than the internal memorial to Sir John Pakington (1551) contributes to the significance of the church demonstrating the long family association. (The Pakingtons had moved from Hampton Lovett to the nearby Westwood Park after the Civil War.) The railway line provides for a passage under the rail tracks along the route to The Old Rectory. This provides evidential value that contributes to the understanding and significance of the Church in respect of its importance within its community at that time and its interrelationships with other buildings in the landscape.

In respect of the application site, whilst it has been reduced in size to provide greater separation from the Church and the proposed development, it is still largely read as area of open pastureland to the south of the Church. Whilst it does not have a fixed functional, ownership or financial link to the building, the open pastureland provides a clear rural setting and strong sense of separation from the town of Droitwich which has been the case for hundreds of years. It provides for a sense of calmness even if it is not particularly tranquil. This setting therefore reinforces understanding of the historic role of the Church in providing for a rural community over a sustained period and this contributes to the significance of the asset. Additionally it provides for aesthetic interest that is derived from glimpsed views along The Forest of the Church seen with a woodland backdrop and with a pastureland context.

The Effect of the Proposed Development on The Church of St Mary

Whilst much of the significance of this heritage asset is derived from its built fabric, internal features, memorials and associations, the wider setting including the application site, despite being reduced in size, contributes to the significance of this asset.

As the Appeal Inspector noted, at present, the comparatively tall height of the church tower compared with the rest of the church and nearby dwellings is partly masked, other than in winter months, by existing large trees adjacent to and within the churchyard. Even had that not been the case, the proposed dwellings, whilst reducing openness to the south of the church, would not seek to compete with the monumentality of the church tower, or indeed the wayfinding function this provides. This is because existing key routes upon which it provides a way-finding role would not have views interrupted by the proposed development site, and because the dwellings would be set back from that route and not be as tall as the tower.

The key issue is therefore the effect of developing on the pastureland itself. Whilst it is intended to provide open space on the area closest to the Church (which has been increased in size following the appeal decision), the loss of that pastureland would still have an adverse effect upon the setting of the Church and thus would harm its significance, albeit this is a limited part of its significance as a whole. In the terms of the Framework, this amounts to less than substantial harm however, it is still of considerable importance and weight. As such, it is harm which should be weighed against the public benefits of the proposed development.

Conclusion on Heritage Assets

As there would be harm at the upper end of 'less than substantial' harm to the Church of St Mary, in terms of the Planning (Listed Buildings and Conservation Areas) Act 1990 the proposed development would fail to preserve the setting of the Church of St Mary and I should have special regard to the desirability of preserving that setting when arriving at the decision. In terms of the Framework, that harm would be less than substantial. Nonetheless, the harm to that listed building is a matter of considerable importance and weight for the planning balance. Moreover, it would result in conflict with Policies SWDP 6 and 24.

Archaeology

The Archaeological Officer has reviewed the information provided with the application and compared it with the archaeological record for the area and has commented as follows. The proposed development may affect heritage assets of known archaeological significance

(WSM70416). The 'historic environment' encompasses all those material remains that our ancestors have created in the landscapes of town and countryside. It includes all below and above-ground evidence including buildings of historic and architectural interest.

The proposed development area (PDA) has been subject to an inconclusive geophysical survey followed by a minimal targeted trench evaluation. An undated linear feature was identified within one trench. The site's previous use as a prisoner of war camp seems to have impacted on the site which led to geophysical anomalies which were targeted by evaluation. Circular features were considered likely to be sandbag machine gun emplacements.

Although minimal archaeology was identified within the evaluation a very small percentage of the site was subject to trenching. The undated linear was thought to be a boundary ditch, however it did not accord with any features shown in current or historic mapping.

Given the scale of the development, and the anticipated archaeological potential, the likely impact on the historic environment caused by this development may be offset by the implementation of a conditional programme of archaeological works. This would comprise an initial programme of trial trenching to determine the presence or absence, extent, date, character, condition and significance of any remains and the likely impact of the development upon them. If archaeological remains are identified that would be damaged or destroyed by the development and they cannot be preserved in-situ then the evaluation would be followed by a defined programme of archaeological excavation and/ or a watching brief to record the remains prior to their loss.

For these reasons, the proposal would accord with the provisions of policies SWDP6 and 24 of the South Worcestershire Development Plan, and guidance contained within the NPPF. This matter would be afforded neutral weight.

Design

Policy SWDP21, seeks to ensure that new development is of a high quality. This is in line with the Framework that states:-

- good design is a key aspect of sustainable development;
- planning decisions should aim to ensure that developments function well, establish a strong sense of place, optimise the potential of the site to accommodate development; respond to local character whilst not preventing appropriate innovation, create safe and accessible environments; and are visually attractive
- planning decisions should not attempt to impose architectural styles or tastes. However it is proper to promote or reinforce local distinctiveness;
- planning decisions should address connections between people and places and integration of new development into the environment;
- permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

The Planning Practice Guidance provides more detailed advice on design with the purpose of meeting a number of design objectives.

Notwithstanding concerns in relation to landscape and heritage matters set out above, if the development of the site were to be considered acceptable in principle, and taking into account the proposal is in outline form at this stage, in terms of the spatial capacity of the site, the supporting plans appear to demonstrate the proposal could physically fit within the site in terms of layout, scale, appearance and landscaping. This matter is therefore afforded neutral weight.

Density, Green Infrastructure and Open Space

Notwithstanding landscape and heritage concerns set out above, whilst the proposal is in outline form, it is considered that the site is capable of accommodating up to 102 residential units, across larger site of 10 hectares which includes Green Infrastructure, in terms of ensuring effective and efficient use of land, an appropriate housing density could be achieved. This is afforded modest weight.

The total site area is in excess of 10ha. Whilst the proposal is outline form, the site appears capable of accommodating at least 40% of the site as Green Infrastructure in accordance with Policy SWDP5. The provision of new public open space and green infrastructure within the site would be benefit but given this is policy requirement for the development so only modest weight can be attached.

Open Market Housing Mix

All new residential development is required to contain a mix of sizes, housing types tenures to help meet the identified range of local housing needs in accordance with the NPPF and adopted SWDP policy SWDP 14 and SWDP 20.

The proposal is outline form at this stage, the supporting information indicates the site can accommodate an appropriate mix of sizes, housing types and tenures to meet a range of housing needs. In the context of the LPA having a shortfall in its 5-year housing land supply, the proposal would provide up to 102 dwellings (including affordable housing) which must be afforded significant weight.

Residential Amenity

Existing occupiers

Given the application is outline form, 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.

Future Occupiers

Whilst in outline form, the indicative plans suggest future occupiers would access to good levels of internal and external amenity space. In terms of the local noise environment, it is noted there is active train line to the west and nearby local highways infrastructure that could harm living condition. However, WRS have considered this issue carefully and advise such impacts could be adequately mitigated with good acoustic layout design and appropriate glazing, ventilation and acoustic boundary fencing. When the site layout has been finalised, the applicant would be required to submit a revised noise assessment detailing the glazing and ventilation products to be installed and the height, extent and surface density of acoustic boundary fencing and confirm that these noise mitigation measures would meet the required sound reduction specifications in order to achieve the BS8233:2014 recommended internal and external noise levels.

For these reasons, the proposal would create a satisfactory environment for future and existing residential occupiers in accordance with Policy SWDP21 and guidance contained within the NPPF. This matter is afforded neutral weight.

Access and Highway Safety

Accessibility by alternative modes of transport

Taking into account, the findings of the appeal inspector on the previous appeal proposals, it is considered the proposal is located within a reasonably sustainable location in terms of locational accessibility having regard to the provisions of Policy SWDP4 which seeks to manage travel demand and reduce the demand for travel by private cars. In addition, the proposal would provide new pedestrian and cycle routes. These factors are considered to be modest benefit.

Impact on highway network

The proposal is supported by a transport statement that demonstrates the proposal would not have a materially adverse impact on local highways infrastructure in terms of additional traffic generation. Accident data has also been reviewed which is consistent with the findings of the supporting transport reports.

Site access arrangements

The proposal includes a new vehicular and pedestrian access to the A442 which includes 2.4m x 160m visibility splays, 5.5m wide road, 2m wide footways to either side that tie into the existing footways and a ghost island turning with 1.2m wide central refuge. Further down the A442, additional 1.2m wide central refuge crossing points are proposed.

The applicant has also provided a bus stop accessibility report which confirms appropriate access to local bus stop infrastructure is available with additional crossing points providing a betterment over the existing arrangements.

Layout, turning and manoeuvring and parking

Whilst in outline form, the supporting plans demonstrate the site is capable of accommodating satisfactory turning and manoeuvring areas for all vehicular traffic including refuse vehicles, and sufficient off road and cycle parking.

Public Rights of Way/Bridleways

There are a number public rights of way/bridleways routes nearby, some used by Horses. However subject to appropriate conditions to mitigate any impact, the proposal would not adversely affect the long-term use of these PROWs/Bridleways.

Sustainable Travel

The proposal would contribute towards expanding local bus services (no.20 service) at a cost of £360,000 and to improve community transport for elderly and disabled at a cost of £4536.

For these reasons, the proposal would not have an adverse impact on the local highways infrastructure, would not result in unsafe access arrangements and is reasonably sustainable in terms of access by non-car modes of transport in accordance with the provisions of Policy SWDP4, SWDP21 and the NPPF. In terms of general highways matters, the proposal would be of neutral weight.

Biodiversity

Whilst the proposal is in outline form, the supporting Biodiversity Gain Assessment demonstrate that there would a substantial biodiversity net gain in the site over and above the 10% set out in the Environment Act. Based on the indicative layout, this would be a potential net gain of 26.05%. The applicant is prepared to commit a minimum net gain of 20% for the scheme which would be a

benefit.

The proposal is supported by ecological assessments that demonstrate subject to appropriate mitigation measures, there would be no significant ecological impacts, and further enhancements can be secured via planning conditions. The development has also been considered by the Wychavon Natural Heritage Officer who raises no objection subject to conditions to secure mitigation for any ecological impacts including the implementation of a Construction Environment Management Plan (CEMP), soft landscaping, tree protection measures, ecological design strategy, landscape and ecological management plan and lighting strategy.

In respect of trees and hedges, the proposed layout has been designed to ensure the retention of important trees. Appropriate tree protection measures can be secured via planning condition.

For these reasons, the proposal has the potential to result in the enhancement of the natural environment, in accordance with SWDP Policy 22 and the NPPF. This would be a benefit.

Flooding and Drainage

The application is supported by a Flood Risk Assessment and Surface Water Drainage Strategy that demonstrates that the proposal would make adequate provision for surface and foul drainage and ensure appropriate water management measures including SUDS would be incorporated within the scheme. The finer details of which can be secured through the imposition of planning conditions. The proposal has been considered by the LLFA and Wychavon Drainage Engineers who raise no objection subject to satisfactory drainage design coming forward at the detailed designs stage.

Overall, 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 or locality, and would incorporate appropriate water efficiency measures in accordance with the provisions of SWDP Policies 28, 29, 30 and the NPPF. This would be a factor of neutral weight overall.

Affordable Housing

This application proposes a residential development of 102 residential dwellings on a site that is Outside the Development Boundary of the South Worcestershire Development Plan.

The Council's document titled 'formal position with respect to affordable housing and tariff style developer contributions following the publication of National Planning Policy Framework 2021' states that on sites of 15 or more dwellings, on greenfield land, 40% of the units should be affordable and provided on site. For 102 dwellings, this equates to 40.8 affordable homes. This application proposes 41 dwellings and therefore meets this policy requirement.

In terms of tenure split, 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 (further details relating to First Homes below).

Therefore, it is sometimes necessary for the tenure split to be amended to comply with this requirement. For this application of 41 affordable dwellings, the required tenure split is 73% social rented (30 dwellings) and 27% First Homes (11 dwellings).

The proposal is capable of meeting the above requirements which would be secured through a Section 106 legal agreement. As indicated above, the provision of affordable housing would be a significant benefit.

Renewable/low carbon energy generation

Policy SWDP27 requires development schemes of this size to incorporate facilities to enable at least 10% of predicted energy requirements to be achieved via renewable or low carbon sources. It also suggests that on large scale developments (over 100 dwellings) development proposals should examine the potential for a decentralised energy and heating network. If practical and viable, a decentralised energy and heating network should be provided as part of the development.

The supporting information suggests the renewable energy strategy could include solar panels, heat pumps, waste-water heat recovery, solar thermal and ventilation heat recovery systems. Further consideration could also be made of any potential decentralised energy and heating networks. Given the proposal is at outline stage, the renewable/low carbon energy strategy can be determined at the detailed design/reserved matters stage with planning conditions imposed to ensure compliance with the requirements of policy SWDP27. This would be a matter of neutral weight.

Planning Obligations

Planning obligations secured under Section 106 of the Town and Country Planning Act are required in order to mitigate the impact of the development and provide the necessary infrastructure provision in accordance with the saved policies of the development plan and Supplementary Planning Guidance/Documents as outlined in this report. The following Heads of Terms have been identified:

Education

As the proposal is in outline form, there will be a formula based calculation based on the final housing mix to be agreed at the reserved matters stage in calculating the education provision. This could potentially be up to:

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
SEND	-	£172,100	for improved special educational needs facilities
Total	-	£1,620,126	

Affordable Housing

The proposal would provide 102 dwellings of which 41 would be affordable housing, meeting the councils requirements of a minimum of 40% units in accordance with the councils document 'formal position with respect to affordable housing and tariff style developer contributions following the publication of National Planning Policy Framework 2021'. Of the affordable housing, the council would seek 27% first homes (11), of the remainder 73% social rent (30 dwellings).

Public Open Space

As the proposal is in outline form, there will be a 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:

Amenity and Semi-Natural Green Space	-	2479m ²
Equipped Play Space	-	216m ²
Civic Space	-	72m ²

Allotments

- 938m2

Off-Site Formal Sports and Leisure

Whilst at outline stage, a formula-based calculation would be applied, providing:

- Up to £61,076 to be used towards local leisure provision
- up to £236,070 towards off-site formal sports pitches in the locality

Primary HealthCare Provision

A developer contribution would be required to mitigate the impacts of this proposal on local primary care provision.

Herefordshire and Worcestershire CCG calculates the level of contribution required in this instance directly relating to the number of dwellings to be £38,640.

Herefordshire and Worcestershire CCG therefore requests that this sum be secured through a planning obligation linked to any grant of planning permission, in the form of a Section 106 planning obligation

County Highways

Contributions of £360,000 towards expansion of local bus services, and £4536 towards community transport for elderly and disabled are sought.

Conclusion on S106 matters

The applicants have confirmed their willingness to enter into a section 106 legal agreement for the above contributions. However, at the time of writing this report no legal agreement has yet been completed.

CIL Regulations

The above requests comply with Regulation 122 (2) of the Community Infrastructure Levy Regulations 2010 (as amended) and paragraph 204 of the Framework in that they are necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development. In addition the above planning obligations comply with the provisions of regulation 123 relating to the pooling of planning contributions.

The application falls outside a defined urban area so the development would be liable for CIL, charged per square metre on all market residential gross internal floorspace.

Other Issues

Vitality and viability

The proposal would support the vitality and viability of the local community which is afforded modest weight.

Construction jobs

The proposal would support the local economy through construction jobs but given they are of a temporary nature, this benefit is afforded limited weight.

Loss of agricultural land

The proposal would result in the permanent loss of three agricultural fields. No Agricultural land assessment has been provided so it is unclear whether the site represents the best and most versatile agricultural land. Even so, its loss as a potential agricultural source counts against the scheme in terms of loss of economic potential which is afforded modest negative weight.

Air quality

WRS have considered the supporting air quality assessment and advise the proposed development would not have a material impact on local air quality, including measurements taken from existing residential receptors (with those located within the Wychbold AQMA). Further mitigation measures in relation low emission boilers, cycle parking, electric charging points are recommended. This matter is considered neutral.

Land Contamination

WRS advise the site has potential for land contamination. WRS advise this risk can be adequately addressed through the imposition of conditions requiring further investigation and remediation of any unforeseen contamination. This matter is considered neutral.

Human Rights

Article 8 of the Human Rights Act 1998 (as amended) states that everyone has the right to respect for his private and family life. A public authority cannot interfere with the exercise of this right except where it is in accordance with the law and is necessary (amongst other reasons) for the protection of the rights and freedoms of others. Article 1 of Protocol 1 of the Act entitles every natural and legal person to the peaceful enjoyment of his possessions.

The law provides a right to deny planning permission where the reason for doing so is related to the public interest. Alternatively, having given due consideration to the rights of others, the local planning authority can grant planning permission in accordance with adopted policies in the development plan.

All material planning issues raised through the consultation exercise have been considered and it is concluded that by approving this application the council will not detrimentally infringe the human rights of an individual or individuals.

Planning Balance and Conclusion

Defined Settlement Boundaries

The application is sited within the open countryside, outside any defined settlement boundary where there is in-principle objection to new housing subject to other considerations set out in the report contrary to the provisions of South Worcestershire Development Plan (2016) Policies SWDP1, 2 and 25 guidance contained in the National Planning Policy Framework. However, in light of SWC no longer being able to demonstrate a combined 5HYLS, in respect of the proposed housing, the titled balance set out of paragraph 11d of the NPPF would be engaged and the conflict with Policy SWDP2 must be weighed in the overall 'planning balance' subject Heritage issues and all other material considerations as set out further below.

Landscape Harm

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 be 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). This significant and demonstrable harm must be afforded significant weight.

Heritage Harm

The proposal would result in harm to the significance of designated through development in its setting. Notwithstanding that the level of harm would be considered “*less than substantial*” in the terms set out in the NPPF, this does not mean that the harm would be unimportant. The Framework requires that great weight should be given to the conservation of designated heritage assets.

The public benefits of the proposal relate to, amongst others, the delivery of 102 houses within a reasonably accessible location with new pedestrian and cycle links, new public open space, improved vitality and viability of the community, new construction jobs, biodiversity net gain, and the associated social and economic benefits. These are afforded significant weight, together with the associated economic benefits given the amount of housing proposed. However, the public benefits would not outweigh the identified heritage harm. As such, the proposal would conflict with Policy SWDP 6, Policy SWDP 24 and those policies of the Framework relating to the historic environment and designated heritage assets as defined in Annex 2 of the Framework. This is considered a clear reason to refuse the application in accordance with paragraph 11di and footnote 7 of the NPPF.

Development Plan

The proposal would conflict with policies of the SWDP in terms of settlement boundaries, character and appearance, landscape and historic environment and provision of supporting infrastructure that would otherwise be secured via s106 legal agreement.

It noted that the proposal would accord with some development plan policies (or elements of those policies) including those relating to supporting economic and social infrastructure, meeting housing need (including affordable housing) within a reasonably accessible location with new pedestrian and cycle links, provision of public open space, temporary construction jobs, making efficient use of land, improved vitality and viability to the local area from increase in residents and biodiversity net gain. However, the areas of conflict with the plan that are identified represent fundamental objections, such that the proposal would conflict with the development plan when considered as a whole. This conflict would not be outweighed by the public benefits associated with the proposal or any other material considerations put forward by the applicant in support of the application.

Other considerations

As the Council cannot demonstrate a 5-year housing land supply as such the approach to decision making, the ‘tilted balance’ set out in paragraph 11 of the Framework would be engaged as a starting point. However, this is a case where the policies of the Framework relating to Designated Heritage Assets provide clear reasons for refusing the proposal. It would therefore follow that paragraph 11 of the Framework would not weigh in favour of the proposal.

Conclusion

Having regard to paragraph 11(d)(i) of the NPPF and having applied the policies in the NPPF that protect areas or assets of particular importance, there is a clear reason for refusing the

development. The 'tilted balance' is not therefore engaged. However, even if paragraph 11(d)(i) was considered not to apply in this instance, it has been demonstrated that the adverse impacts of granting planning permission would significantly outweigh the benefits, in accordance with paragraph 11(d)(ii).

For the above reasons, the proposal would not accord with the development when considered as a whole and, having regard to all material considerations including the NPPF, there are clear reasons for refusing the development proposed, as such it would not constitute sustainable development and is therefore recommended for refusal.

RECOMMENDATION

Refusal on the following grounds:

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 guidance contained in the National Planning Policy Framework.