

## Appeal Decision

Inquiry opened on 8 October 2019

Site visit made on 15 October 2019

**by Zoë H R Hill BA(Hons) DipBldgCons(RICS) MRTPI IHBC**

**an Inspector appointed by the Secretary of State**

**Decision date: 28<sup>th</sup> January 2020**

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### **Appeal Ref: APP/H1840/W/18/3218814 Land to the North of Droitwich Spa**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Beechcroft Land Ltd & Henry Bouskell c/o Trustees of the Wimbush Droitwich Settlement against the decision of Wychavon District Council.
  - The application Ref: 17/01631/OUT, dated 4 August 2017, was refused by notice dated 18 June 2018.
  - The development proposed is described as an 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.
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### **Decision**

1. The appeal is dismissed.

### **Preliminary Matters**

2. The Inquiry opened on the 8 October 2019 and sat on the 8-11 October and 15 October. The accompanied site visit took place on the 15 October.
3. The appeal site address set out in the header above is taken from the application form. The description on the form which accompanies this address provides greater detail, namely 'Site between Berry Hill Industrial Estate, Hampton Lovett Industrial Estate and 'The Forest', Hampton Lovett' and the address given on the Council's Decision Notice is 'Land to the East of Kidderminster Road, Hampton Lovett'.
4. Prior to the determination of the planning application the description of development was amended, on 20 March 2018, to that set out in the header above. This was the basis upon which the Council determined the scheme and so shall I.
5. As part of the appeal process the reasons for refusal were reconsidered and progress made to resolve issues. As a consequence, the Council withdrew from defending reasons for refusal no 3, relating to archaeology, and no 4, relating to ecology, and accepted that no 5, relating to financial contributions could be overcome.
6. A Section 106 Obligation (s.106) was provided in draft form at the Inquiry. Two weeks were allowed, after the close of the Inquiry, for execution of this legal agreement. The signed document was executed and submitted to the

Planning Inspectorate on 24 October 2019. The s.106 provides for on-site affordable housing (50% of the dwellings to be built) and their occupation and delivery; on-site public open space and the public space contribution (including a formula for calculating that contribution); and, an off-site formal sport contribution.

7. After the Inquiry had closed the Council drew attention to the fact that South Worcestershire Development Plan Review Preferred Options document had been made public. Both main parties were given the opportunity to comment upon that matter and I have had regard to their resulting comments within the appeal decision.

### **Main Issues**

8. The main issues in this case are the effect of the proposed development on:
  - (a) the character and appearance of the local area having particular regard to landscape; and,
  - (b) heritage assets, particularly the setting of the grade I listed Church of St Mary.

Whilst the main parties agreed that there would be no harm to the setting of the grade II listed buildings associated with the Church, namely the Pakington Memorial and the lychgate, as well as other historic properties of the settlement, including The Old Rectory (grade II) and Hampton Farmhouse (grade II), I am mindful of my statutory duty to consider those other listed buildings and of the comments of others in respect of them.

It is also necessary to consider local policy, including the weight to be given to and implications of, emerging policy, and national policy and how it should be applied, as well as considering other matters, including any benefits of the scheme, in order to arrive at a planning balance.

### **Reasons**

#### ***Character and Appearance***

9. The appeal site is situated outside the settlement boundary of Droitwich, which is defined in Policy SWDP 2 of the South Worcestershire Development Plan (SWDP) 2016 (the Development Plan). In terms of this policy, the appeal site is therefore located in open countryside. An emerging Development Plan, the SWDP Review, is in its early stages with the Preferred Options being made public not long after the end of the Inquiry. The appeal site is not proposed to be allocated for development. However, I am mindful that the emerging plan is at a very early stage in its preparation and so can be afforded little weight. The wider implications of this emerging Plan are considered later in this Decision.
10. Policy SWDP 25 of the adopted plan requires that development proposals and their associated landscaping scheme must demonstrate that they take into account the latest landscape character assessment and its guidelines. It seeks that proposed development is appropriate to, and integrates with, the character of the landscape setting. It also seeks that they conserve and, where appropriate, enhance the primary characteristics defined in character

assessments and any important features and take opportunities to enhance the landscape.

11. The appeal site is located within the Severn and Avon Vales National Character Area (NCA). This NCA identifies that the northern part of this area falls into two distinct landscape character types. The appeal site is located within an area of ancient landscape of dispersed settlements with numerous open commons, reflecting needs of droving routes, and small pasture fields.
12. At a more local level the Landscapes of Worcestershire have been identified. The appeal site falls within the Principal Timbered Farmlands. This is described as being of a small to medium scale wooded, agricultural, landscape filtered by views through trees. The tree planting is described as irregularly shaped, with winding lanes, wayside dwellings and farmsteads. The primary characteristics are field hedgerow boundaries and particularly hedge trees and ancient woodland. Secondary characteristics include the organic enclosure pattern, small-scale landscapes with vegetation filtered views and brick and timber buildings. The tertiary characteristics are the mixed farming land use and dispersed settlement pattern. The illustrative plan shows this type of development, woodland and field pattern.
13. The site is located to the north of Droitwich. The proposed development would be beyond the strategic gap which is situated between the edge of Droitwich and the appeal site. Whilst part of a wider land parcel, the scheme would be designed to avoid that strategic gap area. I saw that the topography of the strategic gap, including a curving valley of lower land, creates a well-defined area of land, including woodland, and so retains a strong sense of separation from the town of Droitwich.
14. The Hampton Lovett industrial estate is located near to the appeal site, to the west of the A422. However, it is well screened by dense tree planting. Thus, although it is not countryside, it does not intrude significantly upon the appearance of the appeal site. I appreciate that in winter months when the deciduous trees are not in leaf, this area is likely to be more visually apparent, particularly given the use of external lighting. Nonetheless, I consider that the character of this industrial estate, whether or not it is part of the settlement of Hampton Lovett, does not prevent the appeal site from being perceived as countryside.
15. Doverdale Park is a site which is used for the siting of static mobile homes. The permanent use of this site is not disputed and the mobile homes are clearly treated as such by their occupiers. These mobile homes are set out in a grid pattern with defined plots. This visual block form and intensity of use creates its own character within the countryside. Whilst it is a detractor from the adjoining pasture, it is the type of use that can be found in rural locations and sometimes the most scenic of places. It is the result of the reuse of land, it seems of agricultural origin, as the site of the Hampton Lovett Workers' Hostel, presumed to be for agricultural workers, before later use as a Civil Defence Training School. In my view it clearly forms part of the current character of Hampton Lovett but a very specific and well-defined element of it. However, it is not characteristic of the landscape character type.
16. The other dwellings within Hampton Lovett are mostly concentrated along The Forest, essentially a straight, narrow, private road running east/west between the A422 and the Church of St Mary's. This linear development of some 6

dwellings, is on the northern side of The Forest, with fencing delineating the opposite side and forming part of the site boundary (appellant's Photomontage FM2 and FM3). There are also a few dwellings concentrated near to the entrance to The Forest alongside the A422, but as shown on Photomontage FM1 (provided by the appellant) this side of the A422 retains a rural appearance. In addition, to the dwellings on The Forest, there are more isolated dwellings. These include Forest End, a wayside dwelling situated alongside the A422 close to a roundabout. All of these dwellings are situated with roadside frontage, albeit The Forest, as a vehicular route, terminates just after the Church at the railway line. The character of dwellings alongside ways, or roads, is part of the landscape character for this area.

17. The Old Rectory, which has a functional and visual link to the Church, and The Farmhouse (both listed grade II) are located to the north of the site in an elevated position. These dwellings are typical of the dispersed element of settlement and landscape character.
18. The railway line (Worcester to Kidderminster) is a well-defined feature of the area around the site, being built up to cross the valley landscape with embankments where necessary so that it is pronounced in some views and less so in others. Compared to the Church this is a modern landscape feature. Nonetheless, it is not a new feature of the landscape. This development is a functional one but includes attractively engineered brick-built tunnels under the track facilitating pedestrian access on the public right of way which runs along The Forest.
19. The site is, thus, bordered in part by the low-key road and low-density linear housing of The Forest, the A422, Doverdale Park, the railway line and the land of the Strategic Gap. The site itself is relatively flat pastureland, and part of a larger field area sloping down to the valley and strategic gap. Beyond the railway line there is wooded land and then rising land of larger fields to both the east and north.
20. The character of the appeal site is of agricultural land, with woodland planting and hedgerows. While the railway separates this land from the wider expanse of farmland, it is not an uncharacteristic feature of open countryside, indeed main railway lines cross such landscapes. The built form of settlement is of dispersed housing and wayside housing. Whilst the mobile home park creates a different built form, and is part of the immediate area, the mobile homes are physically low structures. The housing proposed might screen those mobile homes, which detract from the agricultural pastureland, from some directions. However, 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.
21. I saw that there were relatively limited views of the site when approached from the road and footpath network. Nonetheless, there would be views of the proposed housing, albeit with screening or set within foreground and background planting, which would still be likely even after enhanced planting had become established. In particular, there would be views from the east of the site, the length of The Forest, and from the A422. There would also be views from passing trains, albeit these are likely to be of relatively short duration. The impacts on walkers along The Forest/Monarch's Way would be

more significant than for many other users of this landscape. This is because the dwellings along The Forest to the Church and the open space towards Doverdale Park, and beyond it, provide a low-key transition between the countryside and urban fringe development of the industrial estates at this side of Droitwich. The proposed development, even with some areas of public open space, would result in a suburban character between the railway line and A422. This would detract from the enjoyment of the route for those taking longer walks along The Monarch's Way/public right of way network and for those using the more immediate area between the main road and the Church as an opportunity to get away from the urban area for short recreational breaks.

22. Whilst the site is close to the urban fringe, it is situated beyond the settlement gap. Notwithstanding Doverdale Park, and indeed the well-screened industrial estate to the west side of the A422, development in this location would have a harmful visual impact upon the open countryside and upon the character of the settlement of Hampton Lovett. I do not consider this to be appropriate to, or to integrate with, the character of the landscape setting and so I conclude that in this respect the proposal fails to accord with Policy SWDP 25.
23. Even if the primary characteristics set out on the Landscapes of Worcestershire Landscape Information Sheet for Principal Timbered Farmlands, those being the hedgerows, including hedgerow trees, and ancient wooded character, are conserved and enhanced in any landscaping scheme, I do not consider that this results in compliance with Policy SWDP 25 taken in totality. Rather, I consider 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. In this respect, as well as being located outside the settlement boundary for Droitwich, contrary to Policy SWDP 2, there would be a failure to accord with the development plan and this would not simply be a 'technical failure' by being outside of the development boundary as put forward by the appellant.

### **Listed Buildings**

24. Policies SWDP 6 and 24, taken together, seek to conserve and enhance the significance of heritage assets, including that gained from their settings.

#### *The Church of St Mary*

25. 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.
26. The appellant's heritage witness places great weight upon the medieval fabric of the building also stating that only the churchyard and the potential surviving buried archaeological remains of the former medieval settlement contribute to the Church's heritage significance. However, I do not agree. 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.
27. 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'.<sup>1</sup>
28. 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.
29. Turning to the appeal site, it is an 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*

30. It is agreed that there would be no harm to the fabric of the building or to its immediate setting provided by the churchyard. 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 appeal site contributes to the significance of this asset as I have described. In this respect, my view coincides with that of the Council's witness, the WYG Heritage Assessment, which the appellant submitted with the planning application for

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<sup>1</sup> It also adds detail about World Heritage Sites which does not apply here.

the appeal scheme, and the comments of Historic England, even if they have not provided specific evidence in this appeal.<sup>2</sup>

31. 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.
32. The potential to reinstate part of the former footpath crossing the site from the front entrance of the Church towards Droitwich would be of some benefit to historic understanding. However, this route has already been lost and would not be able to provide for historic connections limiting the weight to this benefit. The fact that the route would be through suburban housing would also limit any benefit derived from its provision.
33. 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, the loss of that pastureland would 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.

#### *Other Listed Buildings*

34. Within the churchyard, the Pakington Memorial, to Lady Pakington, dating from c.1841 is listed grade II. Its main significance is as a monument. It is positioned adjacent to the footpath to the Church, between the church and lychgate. In this location, sheltered by the Church, within its well-defined churchyard, its setting within this ecclesiastical boundary contributes to its significance. However, that setting is an intimate one which does not extend to the appeal site. As such, I concur with the main parties that whilst the proposed housing could be seen in combination with the monument this would not result in harm to this particular listed building.
35. The lychgate is also listed in its own right. It acts as a key gateway between the secular and sacred land, lychgates originally being the gateway place where a priest would meet a corpse being received for burial. This lychgate is of mid C19 date, of timber construction on an ashlar plinth under a plain, clay, tiled roof. The timber and iron work include ornamental elements. Its setting is primarily related to the Church and churchyard and the access road to them. These features clearly add to the understanding and significance of the lychgate as a listed building. The appeal site, being of open pastureland, provides an aesthetic context and sense of place which identifies this as a rural

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<sup>2</sup> Historic England's comment that if the Council accepts the scheme it should take the opportunity to enhance and better reveal the significance of the Church does not undermine its position that there would be harm; rather it seems to me that the comment is a pragmatic one which seeks to best protect the Church should the Council have decided to support the scheme.

church lychgate. However, given the scale of the structure, and the proposed retention of open space at this point the proposed development would have a negligible impact upon the significance of the lychgate in its own right.

36. The Old Rectory, dating from c.1800, is a three-storey building, with later additions. It is located on a high point in the landscape above St Mary's Church, to which it has a historical functional link. The footpath between The Old Rectory and the Church includes a tunnel beneath the railway line and is of historic interest. The wider setting of the surrounding agricultural land and proximity to Hampton Farmhouse, the Church and dwellings of The Forest all contribute to the understanding and significance of The Old Rectory. The siting of the proposed housing to the south of The Forest would prevent there being harm to the relationship between the Church and The Old Rectory, or to the relatively isolated, rural, location of The Old Rectory. Nor would there be harm to Hampton Farmhouse, a three-storey red brick house, situated within its agricultural setting.

#### *Conclusion on Heritage Assets*

37. I conclude that 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 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.

#### **Other Matters**

38. It was agreed at the Inquiry that there is a five year supply of housing land (at the 2019 appeal base date)<sup>3</sup>. In this circumstance, paragraph 11 d) the Framework does not apply.
39. That does not mean that benefits of the proposal, including the provision of market and affordable housing, are not material considerations.
40. The Government seeks to significantly boost the supply of homes. This is a matter for both plan making and decision taking, but it is not at all costs.
41. As noted, the five year housing land supply is currently being met without factoring in oversupply in previous years. On that basis, taking no account of oversupply, the appellant accepts that the housing land supply position, on a base date of 2019<sup>4</sup> identifies that there would be a 168 dwelling surplus. The appellant considers this is too close for comfort. It is also accepted that the five year supply may soon fall into deficit but that is not currently the case. I acknowledge that four appeal decisions have been provided which do not consider that oversupply should be considered as part of the housing land supply equation<sup>5</sup>. In this case I am not looking at a circumstance where the required supply is not being provided so there is no need to consider whether undersupply should be included within the calculations for the purposes of

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<sup>3</sup> This is accepted in Mr Brown's Rebuttal Proof ID 3

<sup>4</sup> As set out in Mr Robert's PoE Appendix 2

<sup>5</sup> APP/G1630/W/17/3184272 Land South of Oakridge, Highnam CD 7.6a and CD 7.6b (SoS); APP/J0405/W/16/3158833 Wendover (Mr Brown's Rebuttal Appendix); ID 11 APP/F4410/W/16/3158500 Westminster Drive, Doncaster; ID 14 APP/Z2830/W/18/3206346 Rothersthorpe

deciding how Framework paragraph 11 should be applied. However, in looking forward, there is nothing within the Framework or National Planning Practice Guidance (PPG) which clarifies this matter. The PPG only explains that where areas deliver more completions than required, the additional supply can be used to offset any shortfalls against requirements from previous years. In looking at future supply, it will be a matter for other Inspectors, and the Local Plan process will ultimately determine the housing requirement going forward, and that may, or may not, include any oversupply when looking at future supply requirements in the context of other Development Plan matters.

42. The main parties agreed that the need for greater housing numbers in the emerging Development Plan is likely to mean that greenfield sites will need to be released for development. However, that does not make this site acceptable. Rather, the proposal needs assessing on its own merits having regard to the current Development Plan and all other material considerations. The fact that future housing is likely to utilise greenfield sites in this local authority area is not a matter to which I attach significant weight in this appeal, as the use of such sites is likely in many locations as housing requirements increase.
43. In any event, the extent of supply and factors around supply can be material to decision making and, in this case, it is evident that the Council has been robust in its housing delivery which demonstrates that efforts are being made to do its part in boosting housing supply. This is not just the case for open market housing. The affordable housing delivery for Wychavon between 2011-2019 has been set out by the Council<sup>6</sup> and identifies that the net affordable housing completions amount to 1,979 units, which against the Worcestershire SHMA<sup>7</sup> illustrates a surplus of 297 units and against the Council's Housing Background Paper<sup>8</sup> a surplus of 407 units. Whilst further provision and choice of affordable housing is desirable, particularly in areas where the affordability ratios are high as is the case here, and where demand for affordable housing is strong, the Council is meeting its targets in this area.
44. Whilst the appellant points to the national need to provide 300,000 new homes<sup>9</sup> it cannot be correct to imply that they could be located anywhere. Rather, it needs to be in the context of the needs of housing markets, infrastructure and other planning constraints and opportunities.
45. I agree with the Inspector in the Badsey appeal<sup>10</sup> that housing and affordable housing provision are benefits to be given substantial weight. However, as in that appeal, this does not amount to over-riding weight, rather it is a matter for the planning balance.
46. The scheme has been submitted in outline with matters of detailed housing design to be dealt with at a later stage. There is nothing before me to indicate that a suitable level of detailed design would not be achieved. Good design is a matter of good planning and would be expected in any event, so this matter is neutral in the planning balance. However, that does not mean Policy SWDP 21 would be complied with. That policy clearly explains that development will need to integrate effectively with its surroundings, which it would not. Nor, in

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<sup>6</sup> ID 1

<sup>7</sup> CD 4.14

<sup>8</sup> CD 4.17

<sup>9</sup> ID 16

<sup>10</sup> CD 7.16 APP/H1840/W/17/3192134

terms of criterion v., would the distinct identity and character of the settlement be safeguarded. It seems to me that this policy is intended to come into play where development of a site is in general terms acceptable and that is not the case here.

47. The site is within reasonable proximity to Droitwich, which is also accessible by bus. Droitwich itself provides main services and facilities and has a train station giving access to wider destinations. As such, the site is reasonably located in terms of accessibility. The proposed illustrative layout indicates a footpath/cycle link through the site with an access point close to the roundabout at the south edge of the site near the A422. This would provide for a more attractive route from The Forest as well as the appeal site when walking or cycling into Droitwich than the current route alongside the A422. Although it would be more circuitous for existing residents, it would, nonetheless be of benefit to them. The proximity to Droitwich and increased accessibility are a modest benefit of the proposed development.
48. Whilst landscape enhancement would be a benefit of the scheme it would be required, in part, to screen and to mitigate the harm of the appeal proposal, which limits the weight to accord it. The improvements to public open space in this location would be a benefit. However, I am mindful that there is a reasonable public rights of way network which facilitates public access to the countryside including circular walks. The requirement for open space derives from the proposed development. I therefore attach modest weight to this benefit.
49. The increase in population in Hampton Lovett could increase the vitality and viability of the community. I appreciate there are some local views that the existing community is active, and functions well, and so does not need enhancing. It seems to me that there would be a likelihood of increasing the community size, mix and diversity so increasing its vitality and viability. This benefit though is a modest one where the existing community appears to be actively engaged and vibrant.
50. Construction jobs would generate some local economic benefits. However, these are likely to be short-lived and would depend upon the employment approach of the developer. As such, I afford this benefit limited weight.
51. I understand that many of the residents of the mobile home site are concerned that the proposed development would harm their residential amenity, particularly in respect of outlook, privacy, noise and disturbance, and are also concerned about fire safety. The appeal scheme is in outline only, therefore particular inter-relationships would be matters for the detailed scheme. However, I am satisfied that there would be adequate space to provide for a scheme which would meet normal requirements for privacy, outlook and daylight. I note that there is no right to a private view. The type of activity anticipated from residential development, whether a mobile home or permanent dwelling, is such that noise and disturbance between the existing and proposed site use would not be unacceptable in principle. Concerns relating to building safety would be a matter for Building Regulations, including relating to fire safety. As such, this matter is neutral in the planning balance.
52. Local residents are concerned about the impact of additional traffic on the highway network and associated pollution. The evidence before me indicates that the highway could acceptably accommodate the additional traffic and

neither matter would result in a situation that would justify withholding planning permission. Indeed, it is a matter of common ground between the main parties that this is the case. The ability to accommodate additional traffic would be a normal requirement of new development proposals and this matter is, in my view, neutral in the planning balance.

53. Whilst there would be provision of a sustainable drainage scheme for the site, this would be needed because of the proposed development and would essentially be for the benefit of the occupiers of the scheme. Thus, I do not attach weight to this matter in the planning balance.
54. Local residents clearly enjoy the wildlife they see within the site and surrounding area. The ecological survey work provided for the scheme concluded that the site was of low ecological value. Bat species were identified during that survey work, but the scheme would not impact upon roosts and have negligible impact on hedgerow foraging routes. The appeal scheme proposes significant areas of open space and land to be managed for ecological benefit, which would support bats, as well as providing for recreational access. On the evidence before me I am satisfied that subject to suitable conditions, the effect of the scheme on local ecology would be acceptable, indeed there would be a net biodiversity gain. This would represent a significant benefit to the local habitat, and I accord it moderate weight in the planning balance.

### **Accord or otherwise with the Development Plan and the Planning Balance**

55. The starting point in determining this appeal is the Development Plan. Section 38(6) of the Planning and Compulsory Purchase Act 2004 makes it clear that if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.
56. It is a well acknowledged situation that development plan policies can pull in different directions<sup>11</sup>. Moreover, it is necessary to consider whether the proposal accords with the development plan as a whole. I have concluded that there would be a failure to comply with Policies SWDP 2, 6 and 24. Policy SWDP 1 is an overarching policy which seeks to be positive. Indeed, it sets out at (c) that 'where applications do not accord with policies in the SWDP, the Local Authority will seek to work with a view to mitigating adverse impacts and identifying sustainable solutions where possible'. This does not mean that it will always be possible to overcome objections. Equally, there may be circumstances where material considerations alter the planning balance<sup>12</sup>.
57. In this case, the policy conflict is clear, and I do not consider that the proposal would accord with the Development Plan taken as a whole. The Act makes it clear that this is the starting point and the Framework, at paragraph 15, reiterates that the planning system should be genuinely plan-led.
58. I also note that the Development Plan has delivered what has been required in terms of housing and affordable housing. Furthermore, the Council is moving forward with a timely review. As such, the plan-led system is shown to be achieving what has been envisaged for the area following an Examination process.

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<sup>11</sup> As made plain in *Tesco Store Ltd v Dundee City Council*

<sup>12</sup> Numerous caselaw points were submitted (CD8.3; ID 24) to which I have had regard

59. It is therefore necessary to consider whether any material considerations indicate that the appeal should be allowed<sup>13</sup>. I have set out the benefits of the scheme above alongside the weight I afford them, namely, the provision of housing, including affordable housing, proximity to Droitwich, provision of public open space, landscape enhancement, the creation of construction jobs, improved vitality and viability to the local area from an increase in residents and net biodiversity gain.
60. I consider that, despite those benefits, the harm to the character and appearance of the area, including the landscape harm, and the harm to the setting of the Church of St Mary, is such that the appeal should fail.

### **Conclusion**

61. For the reasons set out above and having had regard to all other matters raised I conclude that the appeal should be dismissed.

*Zoë H R Hill*

Inspector

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<sup>13</sup> This reflects the approach by my colleague in APP/H1840/W/17/3188250 Allesborough Farm Pershore (ID12)

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Miss Sarah Clover

She called<sup>14</sup>:

Mrs Eileen Marshall BSc (Sp Hons) DipLA MA MCIHort	Landscape Witness
Mr Richard Broadhead BA (Hons) MSc	Heritage Witness
Mr Timothy Roberts MRTPI	Housing Land Supply Witness
Mrs Emma Worley BA (Hons) Dip EP MRTPI	Planning Witness

### FOR THE APPELLANT:

Mr Charles Banner QC assisted by Mr Alistair Mills

He called:

Mr Robert Sutton MCIfA	Heritage Witness
Mrs Fiona McKenzie MA (Cantab), MA CMLI, AIEMA A.Abor.A	Landscape Witness
Mr Steven Brown BSc Hons Dip TP MRTPI	Housing Land Supply Witness
Mr Guy Wakefield MRTPI BA (Hons)	Planning Witness

### INTERESTED PERSONS:

Mr Crow Hampton Lovett and Westwood Parish Council  
Mrs C Ellson-Evans Secretary to the Doverdale Park Residents' Association  
Mr Lawrenson  
Mr Whiting

### INQUIRY DOCUMENTS

ID 1 Rebuttal Tim Roberts (Council - Housing)  
ID 2 Rebuttal Robert Sutton (Appellant - Heritage)  
ID 3 Rebuttal Steven Brown (Appellant - Housing)  
ID 4 Rebuttal Guy Wakefield (Appellant - Planning)  
ID 5 Written Submission Mr Crow - Parish Council  
ID 6 Written Submission Stephen Harris Keepers Cottage  
ID 7 Opening Appellant  
ID 8 Opening Council

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<sup>14</sup> Ms Heather Peachy and Mr Teal assisted with matters relating to conditions

- ID 9 Email Submission Julian Pope 30 September 2019
- ID 10 Email Submission Christine Ellson-Evans 4 October 2019
- ID 11 Appeal Decision APP/F4410/W/16/3158500 Westminster Drive Doncaster
- ID 12 Appeal Decision APP/H1840/W/17/3188250 Allesborough Farm Pershore
- ID 13 Appeal Decision APP/G2815/A/13/2209113 St Christopher's Drive Oundle
- ID 14 Appeal Decision APP/Z2830/W/18/3206346 Rothersthorpe
- ID 15 Written Submission and two newsletters Peter Lawrenson
- ID 16 National Planning Policy Guidance 2012 Extract Paragraph 49 and Consultation Response
- ID 17 Written Submission David Whiting
- ID 18 Written Submission Mr Hartley on behalf of Church Council of Hampton Lovett
- ID 19 Extract from South Worcestershire DP (Policy 39) and Supplementary Planning Document
- ID 20 Section 106 Agreement (unsigned)
- ID 21 Playing Pitch Strategy
- ID 22 Closing on behalf of Interested Parties (Mr Lawrenson)
- ID 23 Council's Closing
- ID 24 Appellant's Caselaw, submitted with Closing
- ID 25 Appellant's Closing

## PLANS

- PLAN A The Application Plans – Site Location Plan<sup>15</sup>
- PLAN B The Site Visit Plan

## CORE DOCUMENTS

- CD 1 Application Documents
- CD 1.1 Application Form
- CD 1.2 Site Location Plan
- CD 1.3 Illustrative Site Plan, as amended 20 March, 2018 2014/K729/15(F)
- CD 1.4 Illustrative Site Plan Showing Constraints 2014/K729/16(-)
- CD 1.5 Topographic Surveys
- CD 1.6 Covering Letter
- CD 1.7 Design and Access Statement
- CD 1.8 Planning Statement
- CD 1.9 Landscape and Visual Impact Assessment
- CD 1.10 Transport Assessment
- CD 1.11 Travel Plan
- CD 1.12 Water Management Statement
- CD 1.13 Noise Impact Assessment
- CD 1.14 Built Heritage Report
- CD 1.15 FRA and Foul Utilities Assessment
- CD 1.16 Energy Statement

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<sup>15</sup> This was accompanied by a number of documents and an Illustrative Site Plan (amended) all as set out in the Core Documents below

CD 1.17	Ecological Assessment
CD 1.18	Contaminated Land Report
CD 1.19	Archaeological Desk Based Assessment
CD 1.20	Arboricultural Report
CD 1.21	Air Quality Assessment
CD 1.22	Agricultural Land Considerations
CD 1.23	Proposed Footway – Option One
CD 1.24	Proposed Ghost Island Site Access Junction
CD 2	Local Decision Documents
CD 2.1	Officer’s Delegated Report
CD 2.2	Decision Notice
CD 3	Consultation Responses
CD 3.1	Policy Officer
CD 3.2	Archaeology Officer
CD 3.3	Drainage Officer
CD 3.4	WCC PRoW Team
CD 3.5	Worcester Regulatory Services Noise
CD 3.6	Hampton Lovett and Westwood Parish Council
CD3.7	Landscape & Natural Heritage Officer (Biodiversity)
CD 3.8	Landscape Officer
CD 3.9	Network Rail
CD 3.10	Lead Local Flood Authority
CD 3.11	Severn Trent
CD 3.12	Community Development Manager
CD 3.13	WCC Highways (Response 1)
CD 3.14	WCC Highways (Response 2)
CD 3.15	Worcester Regulatory Services Air Quality
CD 3.16	Worcester Regulatory Services Contamination Response 1
CD 3.17	Worcester Regulatory Services Contamination Response 2
CD 3.18	Historic England
CD 3.19	Worcestershire Wildlife Trust
CD 3.20	Housing Officer
CD 3.21	Hampton Lovett and Westwood Parish Response 2
CD 4	Planning Documents
CD 4.1	South Worcestershire Development Plan
CD 4.2	National Planning Policy Framework
CD 4.3	SWDP Review Issues and Options
CD 4.4	Laying the Foundations: A Housing Strategy for England
CD 4.5	Ministerial Statement Planning for Growth (March 2011)
CD 4.6	Ministerial Statement Housing and Growth (6 September 2012)
CD 4.7	The Housing White Paper: Fixing our Broken Housing Market
CD 4.8	Treasury Fixing the Foundations: Creating a More Prosperous Nation
CD 4.9	The House of Commons Committee of Public Accounts (19 June 2019)
CD 4.10	South Worcestershire Design Guide SPD (March 2018)
CD 4.11	Developer Contributions SPD (July 2018)
CD 4.12	Affordable Housing SPD (October 2016)
CD 4.13	Wychavon Fiver Year Housing Land Supply Report July 2018
CD 4.14	Worcestershire Strategic Housing Market Assessment GVA (February 2012) and Appendix 6
CD 4.15	Strategic Housing and Employment Land Availability Assessment
CD 4.16	Housing Delivery Test 2018 Measures
CD 4.17	The Economic Footprint of UK House Building (March 2015)

- CD 4.18a Wychavon Five Year Housing Land Supply Report September 2019
- CD 4.18b Wychavon Wider Worcester Area Five Year Housing Land Supply Report
- CD 4.18c WDC Planning Committee Report (19 September 2019): Wychavon and Wider Worcester Area (Wychavon) Five Year Housing Land Supply Report 2019
- CD 4.19 Tim Roberts Review: Wychavon Wychavon Five Year Housing Land Report September 2019
- CD 4.20 NPPG extracts
- CD 4.21 SWDP Review Preferred Options (not available)
- CD 4.22 Wychavon AMR Dec 2018
- CD 4.23 Housing Background Paper Addendum Sept 2015
- CD 4.24 Email from LPA enclosing information on housing needs register (27 June 2019)
- CD 5 Landscape Documents
- CD 5.1 National Character Area profile 106: Severn and Avon Vales (Natural England 2014)
- CD 5.2 Extracts from Worcestershire Landscape Character Assessment
- CD 5.3 Worcestershire Green Infrastructure Strategy 2013-2018
- CD 5.4 Guidelines for Landscape and Visual Impact Assessment Third Edition (Landscape Institute of Environmental Management & Assessment 2013) Hard copy only
- CD 5.5 European Landscape Convention 2000 (Council of Europe)
- CD 6 Heritage Documents
- CD 6.1 Conservation Principles, Policies and Guidance for the Sustainable Management of the Historic Environment (Historic England 2008)
- CD 6.2 Historic Environment Good Practice Advice in Planning: 2: Managing Decision Making in the Historic Environment (Historic England 2015)
- CD 6.3 Historic Environment Good Practice Advice in Planning: 3: The Setting of Heritage Assets (Historic England 2017)
- CD 6.4 Section 66 Planning (Listed Buildings and Conservation Areas) Act 1990
- CD 6.5 Listing Selection Guide: Places of Worship (Historic England 2017)
- CD 7 Appeal Decisions (as submitted as Core Documents – additional Appeal Decisions were appended to Proofs of Evidence and submitted as Inquiry Documents)
- CD 7.1 Land at Money Hill, North West Leicestershire (APP/G2435/A/14/2228806)
- CD 7.2 Land rear of Canonbury Street, Berkley, Gloucestershire (APP/C1625/W/15/3133335)
- CD 7.3 Land on east side of Green Road, Woolpit, Suffolk (APP/W3520/W/18/3194926)
- CD 7.4 Longdene House, Hedgehog Lane, Haslemere (APP/W/R3650/16/3165974)
- CD 7.5 Land to the west of Cody Road, Waterbeach, Cambridge (APP/W0530//13/2207961)
- CD 7.6a&b Land south of Oakridge, Highnam SoS Decision and Inspectors Report
- CD 7.7 Land to the north and south of Flitch Way, Pods Brook Road, Braintree (APP/Z1510/W/18/3197293)
- CD 7.8 Land off Watery Lane, Curborough, Lichfield, (APP/K3415/A/14/2224354)

- CD 7.9 Land at Southminster Road, Burnham-on-Crouch (APP/X1545/W/15/3009772)
- CD 7.10 Land at Sibford Road, Hook Norton, Banbury (APP/C3105/A/14/2226552)
- CD 7.11 Land to the east of Broad Marston Road, Mickleton (APP/F1610/A/14/2228762)
- CD 7.12 Land to the north of Dark Lane, Alrewas, Burton on Trent (APP/K3415/A/14/2225799)
- CD 7.13 Land at Deerlands Road, Wingerworth (APP/R1038/W/17/3192255)
- CD 7.14 Land at Satchell Lane, Hamble-le-Rice (APP/W1715/W/18/3194846)
- CD 7.15 CABI International, Nosworthy Way, Mongewell, Wallingford, Oxfordshire (APP/Q3115/W/16/3165351)
- CD 7.16 3 Bretforton Road, Badsey, Evesham (APP/H1840/W/17/3192134)
- CD 8 Judgements and Consent Orders
- CD 8.1 Tewkesbury Borough Council v Secretary of State for Communities and Local Government & Others [2019] EWHC 1775 (Admin) 8 July 2019)
- CD 8.2 Eastleigh Borough Council v Secretary of State for Communities and Local Government [2019] EWHC 1862 (Admin)
- CD 8.3 City of Edinburgh City Council v Secretary of State for Scotland [1997] 1 WLR 1447
- CD 8.4 Tesco Store Ltd v Dundee City Council [2012] PTSR 983
- CD 8.5 Cherwell District Council v Secretary of State for Communities and Local Government [2016] EWHC 9Admin)
- CD 9.0 Appeal Documents
- CD 9.1 Appellant's Statement of Case
- CD 9.2 Wychavon District Council's Statement of Case
- CD 9.3 Statement of Common Ground
- CD 9.4 Archaeological Evaluation Report
- CD 9.5 Briefing Note: Bat Survey
- CD 10 Miscellaneous
- CD 10.1 Officers Delegated Report W/14/00521/CU