



# RIDGE

**APPELLANTS' PRE-INQUIRY  
STATEMENT OF CASE**

**LAND NORTH OF DROITWICH  
SPA, DROITWICH**

**LPA APPLICATION REF.  
W/22/00201/OUT**

August 2022

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LAND NORTH OF DROITWICH SPA, DROITWICH  
LPA REF. W/22/00201/OUT**

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## 1. INTRODUCTION

- 1.1 This pre-inquiry Statement of Case (SoC) is submitted on behalf of Beechcroft Land Ltd and Henry Bouskell C/O Trustees of the Wimbush Droitwich Settlement, (hereafter referred to as 'the Appellants') in support of its appeal against Wychavon District Council's failure to determine its outline planning application at land north of Droitwich Spa, Droitwich (hereafter referred to as 'the Site') within the relevant statutory period.
- 1.2 The full description of development contained on the application forms is:
- "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."*
- 1.3 The application was submitted on 25 January and was validated by Wychavon District Council on 3 February 2022 under application reference W/22/00201/OUT.
- 1.4 The plans for approval are:
- i. Site location Plan ref. K729-01(B)
  - ii. Proposed Site Access ref. HAM-BWB-GEN-XX-DR-TR-101\_S2 Rev P8
- 1.5 All other plans submitted as part of the application were done so for illustrative purposes only.
- 1.6 The access for consideration at the outline stage does not include for pedestrian access into the Site, other than where associated with the main access proposed into the Site.
- 1.7 To date, no decision has been issued on the planning application, but it is anticipated that the Local Planning Authority (LPA) will take a report to its Planning Committee to request that Members consider whether they would have granted planning permission, had the LPA still been the determining authority. If Members subsequently conclude that they would have refused the application, the putative reasons for refusal can then be used to identify the main issues that will need to be debated at the Inquiry.

## The Appeal Submission

- 1.8 This planning appeal has been prepared in accordance with the Planning Appeals Procedural Guide July 2020 and the advice contained at Appendix J of the guidance.
- 1.9 The appeal submission comprises this SoC, a fully completed appeal form and draft Statement of Common Ground (SoCG) together with all information previously submitted to the local planning

authority as part of the planning application. In addition to the above, a Landscape Strategy for new Public Open Space is being prepared for submission as part of the appeal which will cover the land in blue, to the north of the red line boundary shown on the Site Location Plan. It is proposed that the Landscape Strategy can be secured as part of the s106 legal agreement.

1.10 This SoC has been drafted on the basis that the appeal will follow the Inquiry procedure, therefore the case set out below will be developed in due course through Proofs of Evidence. Nevertheless, the submitted SoC contain the full particulars of the case which the Appellants propose to put forward at the Inquiry and describes the evidence that the Appellants intend to present. The Appellants also reserve the right to provide evidence on any additional issues that the Council may introduce.

1.11 As noted earlier, the appeal is against non-determination and thus the Appellants do not have a clear steer on the potential reasons for refusal. Nevertheless, through discussions with the LPA during the application process and given the planning history of the Site, the Appellants anticipate that the following issues are likely to be pertinent:

1. whether the site is a suitable location for development having regard to planning policy and the Council's housing land supply position;
2. the effect of the development on the setting and significance of designated heritage assets;
3. the effect of the development on the character and appearance of the local area having particular regard to landscape;
4. the weight to be given to the benefits of the proposed development;
5. whether the submitted planning obligation would adequately address the impacts of the proposed development; and
6. the planning balance.

1.12 In addition to the above, a further highways consultation response from the highway authority is expected in relation to the application proposals which has not been received at the time of submitting this appeal. The response is anticipated following the submission of additional information to specifically address some final requests of the highway authority in its initial responses to the application. The Appellants consider that the submission of additional information resolves the outstanding highways queries but until a formal response is received, it should be noted that highway impacts may also need to form an issue for consideration at the appeal and the Appellants reserve the right to provide additional evidence on this matter if necessary.

**2. SITE AND SURROUNDING AREA**

- 2.1 A description of the Site and surrounding area can be found in the accompanying draft SoCG.
  
- 2.2 The accessibility of the Site is set out in the Transport Assessment prepared by BwB which accompanied the application.
  
- 2.3 In the event that agreement cannot be reached with the LPA on the description of the Site and its surroundings, the Appellants will provide a full description in their evidence, as necessary.

**3. PLANNING HISTORY**

- 3.1 The planning history relevant to the Site is set out in further detail in the accompanying draft SoCG. However, a brief summary is set out below.
- 3.2 An outline planning application was previously submitted on the Site in 2017 for up to 144 dwellings (including 50% affordable homes) access and associated works under application reference 17/01631/OUT. That application was refused planning permission by Wychavon District Council on 18 June 2018 for 5 reasons, as detailed in full in the draft SoCG.
- 3.3 That decision was subsequently appealed and was heard at a Public Inquiry in October 2019. As part of the appeal process, a number of the reasons for refusal were reconsidered and/or resolved with the LPA. The LPA withdrew from defending reasons for refusal 3, relating to archaeology, and 4, relating to ecology, and accepted that number 5, relating to financial contributions could be overcome by the provision of a s106 legal agreement. A s106 agreement was provided in draft form at the Inquiry for on-site affordable housing; on-site public open space and the public space contribution; and an off-site formal sport contribution.
- 3.4 The appeal was subsequently dismissed on 28 January 2020 (appeal reference APP/H1840/W/18/3218814). In summary, the Inspector concluded that the main issues in relation to the appeal proposals at that time were:
- the effect of the proposed development on the character and appearance of the local area having particular regard to landscape; and
  - heritage assets, particularly the setting of the Grade I listed Church of St Mary.
- 3.5 At the time the appeal was determined, it was also not disputed that the Council could demonstrate a 5-year housing land supply (5YHLS).
- 3.6 As set out in the draft SoCG, it is acknowledged that the previous appeal decision forms a material consideration in the determination of this appeal. However, the Appellants' will demonstrate through its evidence that a material change in circumstances has occurred since that appeal was determined. Namely, that the Council cannot demonstrate a 5YHLS and that the adverse impacts of allowing the appeal proposal do not significantly and demonstrably outweigh the benefits of the scheme.
- 3.7 Furthermore, the proposed development has been significantly altered from the previous appeal proposals in response to the issues raised by the previous Inspector, as outlined in Section 4 of this SoC.



3.8 There is no other planning history of relevance to the Site.



## 4. THE APPEAL PROPOSAL

- 4.1 The full description of the proposed development is set out in Section 1 of this SOC. A more detailed description of the appeal proposal is contained in the accompanying draft SoCG and within the Design and Access Statement which accompanied the planning application. This will be expanded upon in the Appellants' Proofs of Evidence if necessary. However, a brief summary of the proposed development is outlined below.
- 4.2 The proposed development has been significantly amended when compared to the previous appeal proposal at the Site, as referred to in Section 3 of this SoC. The current proposal results in a 29% reduction in the amount of proposed development when compared with the previous appeal proposal (the previous appeal scheme was for 144 dwellings whereas the current proposals are for to up to 102 dwellings.)
- 4.3 In addition to the above, the red line site area has also been reduced and now excludes the land to the north of the red line. This land is now contained within the blue line site area. A Landscape Strategy for this area to be retained as Public Open Space is being prepared for submission as part of the appeal and this can be secured as part of a s106 legal agreement. The Appellants will also endeavour to agree a Biodiversity Net Gain (BNG) calculation with the council.



**5. PLANNING POLICY**

5.1 The planning policies and any relevant guidance that are considered material to the determination of the appeal are set out in the draft SoCG. This will be expanded upon in the Appellants' Proofs of Evidence.

## **6. THE APPELLANTS' CASE**

6.1 As this is an appeal against non-determination, there are currently no stated reasons for refusal. However, the following issues are considered to be most relevant, and the Appellants intend to present evidence on each of these matters where necessary. The Appellants reserve the right to provide evidence on any additional issues that the Council may introduce.

### **Issue 1 – principle of development and housing land supply**

6.2 The Appellants accept that the development proposal is contrary to Policy SWDP 2 a) iii) and c) of the development plan, by virtue of its location outside the defined settlement boundary for Droitwich Spa and the fact that it comprises development that would not meet one of the exceptions listed as being acceptable development in the open countryside.

6.3 However, the Appellants' evidence will identify that there are material considerations that justify a departure from the development plan, namely that the Council acknowledges it does not have a 5-year housing land supply (5YLS).

6.4 Accordingly, the Appellants will explain through their detailed planning evidence that the weight to be attached to conflict with the development plan policies most important for determining the appeal should be tempered in the planning balance, with reference to relevant case law where necessary.

6.5 Further, whilst the Appellants agree that the Council cannot demonstrate a 5YLS, the Appellants will submit their own detailed evidence which will analyse the nature and extent of the shortfall in housing supply more fully. In doing so, the Appellants will refer to the NPPF's aim to significantly boost the supply of housing and evidence will also be presented with reference to relevant appeals and judgments on this matter where required.

6.6 The Appellants also understand that the Council intends to update its five-year land supply position at the end August 2022, with the obvious consequence that the Council may yet again contend that it is able to demonstrate a 5YLS for the purposes of the current appeal. Until this updated 5YLS Assessment is published, neither party can identify the extent or complexity of any additional newly arising issues relevant to the five-year land supply position that may need to be examined at the forthcoming appeal. The Appellants therefore reserve the right to comment on this Assessment further in their evidence once it is published.

## Issue 2 – the effect of the development on the setting and significance of designated heritage assets

- 6.7 In respect of heritage, whilst the Heritage Impact Assessment submitted with the application concludes that there is no harm, the Appellants have appointed a new heritage consultant to review the proposal and provide evidence for this appeal. As a result of that consultant's further review, it is now accepted that there will be less than substantial harm to the significance of the Grade 1 Listed Church of St Mary as a result of the proposal. The Appellants will explain the extent of less than substantial harm in its evidence, with reference to visuals/CGIs which will be submitted with the Appellants evidence.
- 6.8 Nevertheless, the Appellants will demonstrate that there are substantial benefits of the application proposal which are sufficient to outweigh the heritage harm. Therefore, concluding that the balancing exercise under paragraph 202 of the NPPF is satisfied.

## Issue 3 – the effect of the development on the character and appearance of the local area having particular regard to landscape

- 6.9 The Appellants contend that the landscape sensitivity and value of the Site is relatively low (ordinary). This is not an area of landscape of high value or sensitivity, and it is at the lower end of the hierarchy of landscape protection.
- 6.10 In addition to this, Droitwich has little alternative developable land which is not constrained by Green Belt, Historic Parks or other environmental constraints. It will also be demonstrated that within the South Worcestershire Landscape Character Assessment, the Site is within the Principal Timbered Farmlands Landscape Type which is identified as being a 'settled landscape' and therefore potentially acceptable for development.
- 6.11 Although the Site is currently countryside, the Appellants consider that the character and appearance is influenced by surrounding existing development and it does not share the strong characteristics of open countryside that are present in the landscape of the adjoining Land Cover Parcels to the north of The Forest and to the east of the railway line. It will therefore be demonstrated that its landscape value is lower than other parts of the surrounding area.
- 6.12 It will also be demonstrated that the Site is strongly contained by existing mature vegetation, development and changes in topography which mean that changes to character and views in the

area arising from the proposed development would be very localised. Whilst the Appellants accept that there would be some harm to the character and appearance of the Site and some close proximity views, the Appellants will demonstrate that these effects would be very localised, that the higher quality landscape to the north and east would not be affected, and that the Strategic Gap (to the south) would be maintained.

6.13 The Appellants will also demonstrate that the landscape proposals associated with the development (including those identified on the Landscape Strategy for submission) could contribute to the stated landscape management objectives set out in the South Worcestershire Landscape Character Assessment and could result in a significant biodiversity net gain. Furthermore, the development provides the opportunity to create an improved gateway to the town.

6.14 The Appellants accept that there would be some limited harm to views from the public footpath which adjoins the Site to the north, and some limited harm as a result of the change of character of the Site from a field of grazed pasture to a developed Site. It will also be demonstrated that the harm is of a reduced magnitude when compared to the previous appeal proposal.

## Issue 4 - whether the submitted planning obligation would adequately address the impacts of the proposed development

6.15 The Appellant will submit a s106 legal agreement prior to the inquiry which secures the provision of 40% affordable housing and other required financial obligations.

## Issue 5 – Planning Balance

6.16 Having overcome the heritage planning balance in paragraph 202 of the NPPF, the Appellant will demonstrate that the Council is unable to demonstrate a 5YLS and, therefore this appeal should be determined by applying the “tilted balance” as set out Paragraph 11 d) (ii) of the NPPF: planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF when taken as a whole.

6.17 Having considered each of the main issues in turn, the Appellants will contend that the only adverse impacts associated with the development are:

- Conflict with the Development Plan due to the Site's location outside the settlement boundary
- Less than substantial harm to the setting of the Grade I Listed Church
- Some localised effects on landscape character and views from the public footpath

6.18 Any conflict with the development plan should be considered in the context that the Council is unable to demonstrate a 5YLS.

6.19 The Appellants will then identify the benefits of the proposed development, including (but not limited to):

- the provision of much needed market housing;
- the provision of much needed affordable housing;
- housing in a sustainable location in the context of an unmet need (including enhanced footpath/cycle link through the Site with an access point close to the roundabout at the south edge of the Site near the A422);
- biodiversity enhancements;
- landscape enhancements, including additional tree planting and additional POS;
- provision of new public open space;
- landscape and POS enhancements that will better reveal the significance of the Grade I listed church, allowing a better appreciation of the listed building; and
- economic benefits, including the creation of construction jobs and the improved vitality and viability of the local area from an increase in residents.

6.20 The Appellants will attribute weight to each of the benefits of the scheme for the purposes of the planning balance.

6.21 Having considered each of the main issues in turn, the Appellants will contend that when weighing the harm associated with the development against the benefits of the proposal, the adverse impacts do not significantly and demonstrably outweigh the benefits of the appeal proposal. Therefore, in line with Paragraph 11 d) of the NPPF, planning permission should be granted, subject to the delivery of a satisfactory s106 agreement and the imposition of any necessary conditions.

6.22 The Appellants will also identify that, even if the Inspector were to conclude that the Council could demonstrate a 5YLS, there are other material considerations that outweigh the conflict with the development plan in line with Section 38(6) of the Planning and Compulsory Purchase Act 2004, such that planning permission should be granted without delay.



**7. PLANNING CONDITIONS**

7.1 A list of suggested conditions will be prepared jointly with the Council and submitted with the agreed SoCG.

**8. DOCUMENTS TO WHICH THE APPELLANT WILL REFER**

8.1 A set of Core Documents will be agreed with the LPA in advance of the Inquiry.

8.2 In addition to the documents submitted with the appeal, as well as relevant planning policy, planning history and consultation responses, the following documents will be referred to (in addition to those referred to above and in the decision notice):

- The Officer's report relating to the appeal proposal (once available), as well as any other Officer reports relating to other recent planning applications within Wychavon District.
- Various appeal decisions including, but not limited to:
  - APP/H1840/W/18/3218814 - Land to the North of Droitwich Spa (January 2020)
  - APP/J1860/W/19/3242098 - Land South of Bransford Road, Rushwick (April 2021)
  - APP/J1860/W/21/3267054 - Land off Claphill Lane, Rushwick (September 2021)
  - APP/H1840/W/21/3289569 - Land off Morris Road, Broadway (June 2022)
  - APP/J1860/W/21/3289643 - Land at Leigh Sinton Farms, Leigh Sinton Road (B4503), Leigh Sinton, Malvern (July 2022)
- Various legal judgements including, but not limited to:
  - East Riding of Yorkshire Council v SSLHC [2021] EWHC 3271 (Admin)
  - Tewkesbury Borough Council v SSHCLG [2021] EWHC Civ 2782

8.3 The Appellants reserve the right to refer to additional documents to those outlined above in preparation of its case and in support of the proposals.