

TOWN & COUNTRY PLANNING ACT 1990

APPELLANT: Beechcroft Land Ltd and Henry Bouskell C/O Trustees of the Wimbush Droitwich Settlement.

LPA: Wychavon District Council

SITE: LAND NORTH OF DROITWICH SPA, DROITWICH

STATEMENT OF COMMON GROUND

APPLICATION REFERENCE: W/22/00201/OUT

APPEAL REFERENCE: APP/H1840/W/22/3305934

Signed on behalf the appellant:

Position: 

Date: 21/11/22

Signed on behalf of the LPA:

Position: 

Position:

Date: 21/11/2022

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1. INTRODUCTION

- 1.1. This Statement of Common Ground (SoCG) has been prepared jointly by Ridge and Partners LLP on behalf of Beechcroft Land Ltd and Henry Bouskell C/O Trustees of the Wimbush Droitwich Settlement (hereinafter referred to as 'The Appellants') and Wychavon District Council (hereinafter referred to as 'the Council').
- 1.2. This statement refers to the appeal against the non-determination of outline planning application W/22/00201/OUT by the Council.
- 1.3. 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."

- 2.1 The application was submitted on 25 January 2022 and was validated by the Council on 3 February 2022 under application reference W/22/00201/OUT. Since the submission of this appeal against non-determination, the Council has set out its putative reasons for refusal in its Statement of Case and Officer's delegated report. They are as follows:

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 2021."

1.4. Therefore, the main issues for consideration¹ are as follows:

- 1) The effect of the proposal on the character and appearance of the area having particular regard to the landscape. And whether the proposals would affect a "valued" landscape within the terms of paragraph 174 (a) of the National Planning Policy Framework (the Framework).
- 2) The effect of the proposal on heritage assets particularly the setting of the Grade I listed Church of St Mary and Grade II Listed Lych Gate.
- 3) Whether the site would be a sustainable location for the proposed development having regard to the development plan and national policies.

¹ As taken from paragraph 11 of the Inspector's Pre-Conference note

- 1.5. The Council acknowledges it currently cannot demonstrate a 5 year housing land supply. The extent of the shortfall, for the purposes of the appeal only, is addressed in the Housing SoCG.
- 1.6. This Statement sets out agreed matters of fact and the agreed positions between the Council and the Appellant in respect of the appeal comprising:
- A description of the site and surrounding area;
 - The planning history of the site;
 - Relevant planning policy;
 - Matters of agreement;
 - Matters of disagreement; and
 - Suggested conditions and Section 106 matters.
- 1.7. Separate SoCG's will be prepared on the matters of the Council's housing land supply position, heritage and landscape impact.

2. SITE AND SURROUNDING AREA

- 2.1 The appeal site comprises approximately 10.05 hectares of largely agricultural grazing land, situated to the north of Droitwich Spa, Worcestershire, as shown on the plan at Figure 1 below.



Figure 1: Site Location Plan (Mapping & Aerial Photography Copyright Ordnance Survey)

- 2.2 As shown on the plan contained at Figure 2, the site is bound to the west by the existing built form of the residential static home park known as 'Doverdale Park', as well as the A422. Hampton Lovett Industrial Estate lies beyond that on the western side of the A422.
- 2.3 To the north is agricultural pastureland and beyond that, the un-adopted road known as 'The Forest' which provides access to a linear development of existing dwellings, as well as St Mary's Church and Hampton Lovett Village Hall.
- 2.4 To the east, the site is bound by mature hedgerow and trees. Beyond that is the Worcester – Kidderminster railway line.

- 2.5 To the south, the site is bound by woodland and mature hedgerow which forms part of the Millgrove Plantation (contained in the blue line on the site location plan). Berry Hill Industrial Estate is located beyond that to the south.

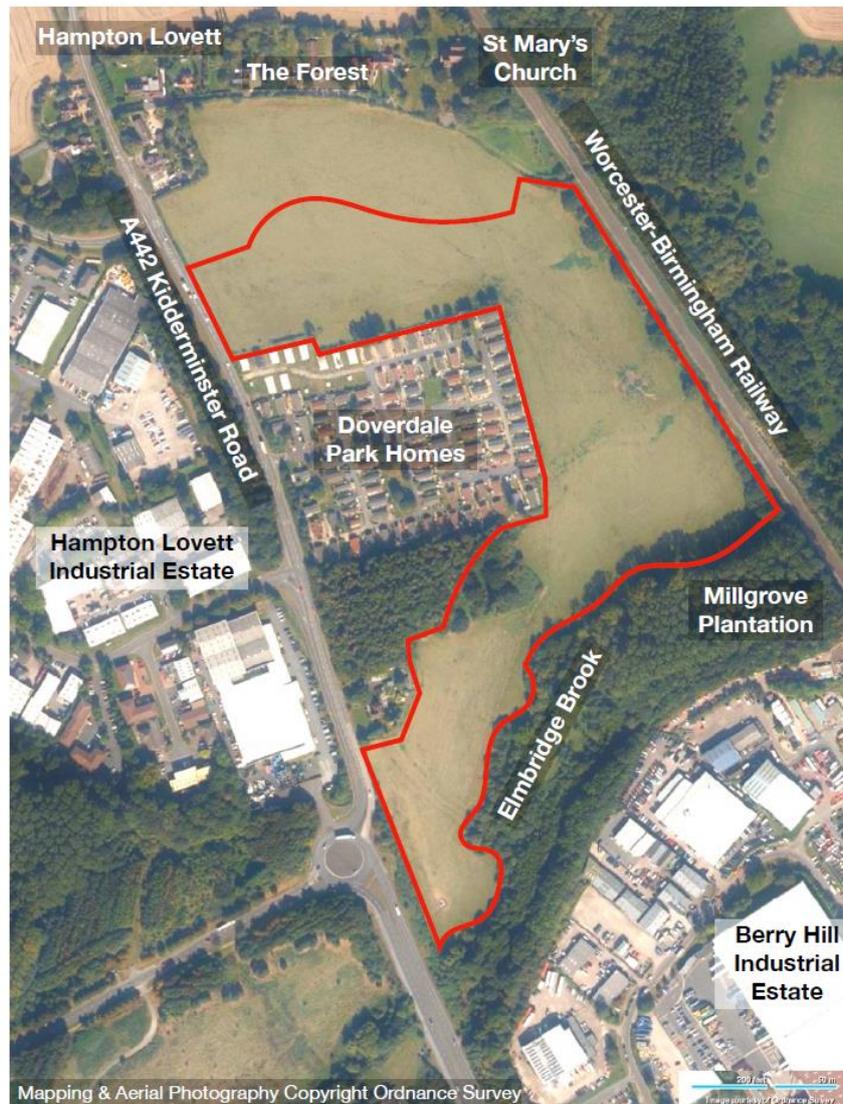


Figure 2: Site Context Plan (Mapping & Aerial Photography
Copyright Ordnance Survey)

- 2.6 The site is located outside of any defined settlement boundary and, therefore, constitutes “open countryside” in planning policy terms. However, the settlement boundary for Droitwich Spa runs adjacent to the edge of Berry Hill industrial estate to the south of the site and on the opposite side of the Kidderminster Road in the south east corner of the site. The site is therefore located in close proximity (circa 40 metres) to the settlement boundary of Droitwich.

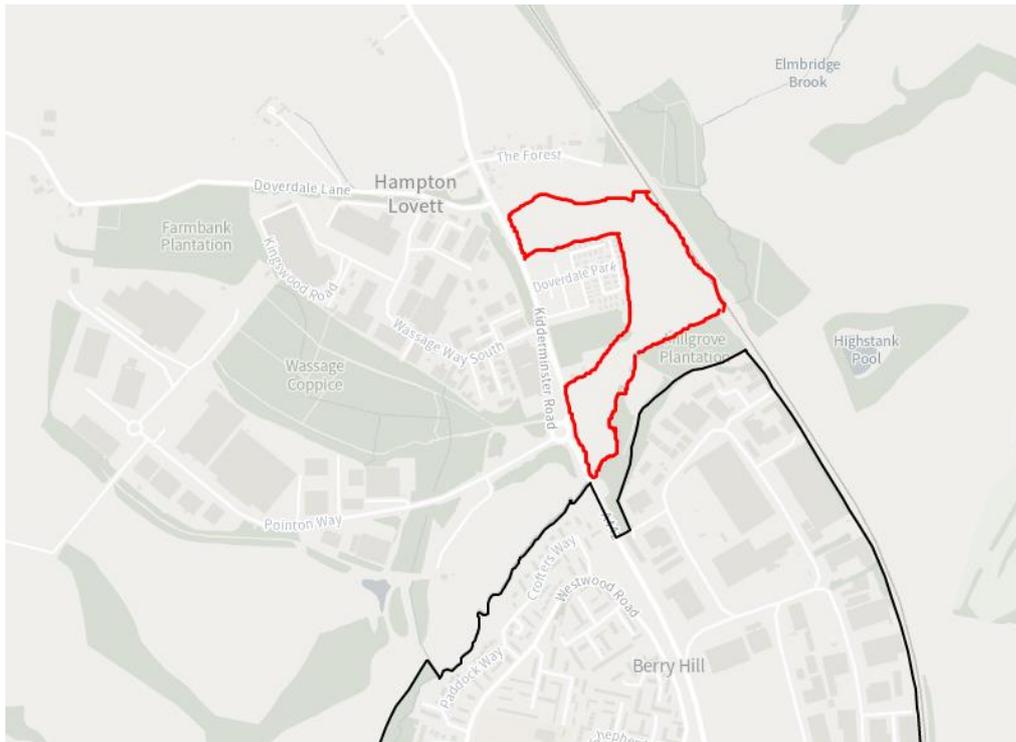


Figure 3: Site Location Plan and settlement boundary

- 2.7 The Town Centre of Droitwich is located approximately 2.5km to the south of the site. Droitwich is identified as a “Main Town” within the Settlement Hierarchy of the South Worcestershire Development Plan (SWDP), and therefore one of the most sustainable settlements outside of Worcester City in the settlement hierarchy.
- 2.8 The SWDP also identifies Droitwich as “*the largest settlement in Wychavon*”² and an “*appropriate location to accommodate a proportion of South Worcestershire’s employment and housing growth over the next two decades.*”³
- 2.9 There are number of service, facilities and employment opportunities within walking distance of the site, as identified in Table 1.1 below.

² See Paragraph 29 of the SWDP

³ See Reasoned Justification for Policy SWDP 48, Page 238 of the SWDP.

Table 1.1 – Facilities within walking distance from the centre of the site

FACILITY	APPROX.WALKING DISTANCE FROM THE CENTRE OF THE SITE
Hampton Lovett Church	200m
Bus stops	200m (from the site access)
Hampton Lovett Community Hall	300m
Hampton Lovett Industrial Estate	500m
Westlands Residential Area Local Centre (inc. convenience store, pharmacy, community hall, takeaway, post office and public house)	1.5km
Droitwich Spa Retail Park (incl. Aldi supermarket, Home Bargains, Lidl supermarket and B&M)	1.7km
Westlands First School & Nursery	1.7km
Berry Hill Industrial Estate	1.25km

- 2.10 To the north of the site is the Kidderminster Road / Doverdale Lane ghost island priority-controlled T-junction, which provides access to the Hampton Lovett Industrial Estate (located to the west of the site), and within walking distance of the site.
- 2.11 A southbound shared footway is present on the western side of Kidderminster Road. At the end of the footway/cycle a dropped kerb staggered crossing point is located on Kidderminster Road, providing a crossing point to footways on the eastern side of Kidderminster Road and into the Berry Hill Industrial Estate, located to the south of the site.
- 2.12 The footway continues southbound to the A442/A38 Roundabout and provides pedestrian routes towards Droitwich town centre, where there is a comprehensive network of footways.
- 2.13 The whole of Hampton Lovett and the majority of Droitwich Spa (including the Town Centre and rail station) is within a 5km cycle distance from the site.

- 2.14 Two bus stops are situated within walking distance of the site on Kidderminster Road, close to the access for Doverdale Park (approximately 200m from the site access). The bus stop on the eastern side of the carriageway is provided with a shelter and the bus stop on the western side has a flag and pole. These stops are served by two services, the 20B which is a Droitwich circular service, providing access to the Town Centre, and the 133 which routes between Droitwich and Kidderminster.
- 2.15 The Westlands residential area also provides a frequent combination of the 20/20A/20B services within approximately 1.0km walking distance south of the site. The Westlands bus stops can be accessed via the network of pedestrian routes within the vicinity of the site. The Westlands residential area south of the site can be accessed via the shared footway/cycleway on Kidderminster Road.
- 2.16 Droitwich Spa railway station is located approximately 2.5km to the southeast of the site. The station can be accessed via bus services 20B and 133, or on foot and by bicycle from the site. Table 1.2 sets out a summary of the services provided from the station:

Table 1.2 Train service destinations and journey times

DESTINATION	FREQUENCY PER HOUR	JOURNEY TIME (MINUTES)
Birmingham New Street	1	38
Hereford	1	53
Worcester Foregate Street	3	8
Birmingham Snow Hill	3	50
Kidderminster	2	10
Bromsgrove	1	9

- 2.17 The site is therefore located in an area where access to everyday services and facilities as well as nearby higher order settlements and a variety of employment opportunities can be achieved via sustainable modes of transport.
- 2.18 The southern part of the site, and land to the south of the site, between Doverdale Park and Berry Hill Industrial Estate, is designated in the SWDP as a 'significant gap'. Paragraph 8 of the Reasoned Justification to Policy SWDP1 confirms:

'The purpose of maintaining these gaps, which either serve as a buffer or visual break between rural settlements and adjacent urban areas or protect the character and setting of settlements, is to provide additional protection to open land that may be subject to development pressures. The designation helps to maintain a clear separation between smaller settlements and urban areas in order to retain their individual identity.'

- 2.19 No built development is proposed within the significant gap.
- 2.20 Land designated in the SWDP as Greenbelt lies immediately to the east of the site on the opposite side of the Worcester – Kidderminster railway line.
- 2.21 There are no designated heritage assets within the site. The Grade I listed church of St Mary and its associated Lych Gate (Grade II) and Pakington memorial (Grade II) are located approximately 100m to the northeast of the site. The old Rectory (Grade II) is 430 metres to the north of the site. Hampton Farmhouse (Grade II) is 440 metres to the north of the site.
- 2.22 The bridleway 537(B) which is part of the Monarch's Way follows 'The Forest', which bounds the site to the north and provides access to St Mary's Church and connects with open countryside to the east of the railway line.
- 2.23 Public footpath 522(C) runs northwards from the immediate north-east of the site, through the grounds of St Mary's Church. A network of footpaths is also located c.100 metres to the north-east and east of the site, on the opposite side of the railway line.
- 2.24 The proposed built development is located within Flood Zone 1 (lowest risk of flooding). A small part of the red line site area to the south is located in Flood Zone 3 however, no built development is proposed in this area.

3. PLANNING HISTORY

3.1 An outline planning application was previously submitted on the site in 2017 for a larger development of 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 the Council on 18 June 2018. The following reasons for refusal were cited by the Council on its decision notice:

- 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 as such would be contrary to SWDP25. The SWDP has been prepared and adopted in the context of the National Planning Policy Framework (NPPF) and its contents reflect the presumption in favour of sustainable development and guide how the presumption will be applied locally. To grant planning permission would also go against one of the core planning principles as set out in para. 17 of the NPPF in that permitting development would not be plan-led. The proposed development is, therefore, contrary to adopted South Worcestershire Development Plan (2016) Policies SWDP1, 2, 4 and 25 as well as guidance contained in the National Planning Policy Framework (2012).*
- 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 any public benefits. The proposal is therefore not considered to represent sustainable development. The proposal fails to accord with policies SWDP6, 21 & 24 of the South Worcestershire Development Plan as well as guidance contained in the National Planning Policy Framework (including) paragraph 131 - 134.*
- 3) *The development is on a site that has the potential for archaeology from various periods. In order to properly evaluate the significance of below ground heritage assets that may be present, a site evaluation in the form of trial trenching to identify any archaeological features of the site is required. In the absence of such information, the application fails to describe the potential presence/significance of heritage assets and how the proposed development may affect potential features of archaeological interest/value. Consequently, the proposed development is contrary to adopted South Worcestershire Development Plan (2016) Policies SWDP1, 6, 21 and 24, as well as guidance contained in the National Planning Policy Framework (2012).*

- 4) *The level of ecological survey information submitted with the application is insufficient to enable the Planning Authority to assess the proposal fully against likely impacts on protected species and ecologically connected habitats. The Framework asks local planning authorities to minimise impacts on biodiversity and to provide net gains in biodiversity where possible. Local Authorities also have a duty to conserve biodiversity under the Natural Environment and Rural Communities Act 2006 and these requirements are reflected in the Council's policy SWDP22. Circular ODPM 06/2005 makes it clear in para 99 that "It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision." Based on the above requirements, the proposal fails to demonstrate that the development would comply with Policy SWDP22 of the South Worcestershire Development Plan.*
- 5) *Whilst noting the applicant's willingness to enter into a Section 106 legal agreement, no secure arrangements are in place to secure:*
- *Monies in lieu of on site formal sports pitches and potentially in lieu of sufficient on-site public open space of range of types set out under policy SWDP39*
 - *The provision of a contribution towards cycling infrastructure; 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."

- 3.2 The decision was appealed and was heard at a Public Inquiry in October 2019. As part of the appeal process, some of the reasons for refusal were reconsidered and/or resolved with the Council. The Council 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.
- 3.3 The appeal was subsequently dismissed on 28 January 2020, under reference APP/H1840/W/18/3218814.
- 3.4 It is accepted by both parties that the previous appeal decision forms a material consideration in the determination of this appeal.
- 3.5 At the time the previous appeal was determined, it was not disputed that the Council could demonstrate a 5-year land supply (5YLS). Therefore, the "titled planning balance" at paragraph 11

d) of the NPPF was not engaged. The Council accepts that for the purposes of this appeal that they cannot currently demonstrate a 5YLS for the current appeal.

4. APPEAL PROPOSALS

4.1 The description of development as contained on the application forms is as follows:

“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.”

4.2 As the application is made in outline the full details of the proposals will be determined at Reserved Matters stage, including the range of dwelling types and sizes. It is agreed that, should the appeal be allowed, that a planning condition should be imposed on the outline permission requiring the submission of a Market Housing Mix Statement.

4.3 However, at this stage, key features of the proposals include:

- 40% affordable housing provision in accordance with policy requirements. The tenure mix will be provided in accordance with local policy requirements and local needs, to be determined at Reserved Matters stage. This could be secured by a s106 legal agreement on the outline proposals.
- A single point of vehicular access into the site via a new priority T-junction off the A442 Kidderminster Road, 60m to the south of the Doverdale Lane junction. This has been designed with appropriate visibility splays and in accordance with the Worcestershire Streetscape Design Guide (2020) ‘informal street’ criteria.
- Proposed residential development located within the central part of the site, adjacent to the northern and eastern boundaries of the existing static home development at Doverdale Park.
- Site boundary and application red line setback from The Forest private road to the north.
- No built development within the designated Significant Gap area as defined by the SWDP policies map.
- All built development located within Flood Zone 1 (lowest risk of flooding).
- 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 is also proposed which could be secured by a condition or s106 legal agreement.
- 40% of the total red line site area to form Green Infrastructure (GI), in accordance with policy requirements for provision of GI.

- A minimum biodiversity net gain (BNG) score of 20% (the current indicative layout demonstrates a biodiversity net gain of 26.05% but the Appellants are willing to commit to a minimum of 20% to take into account that the Reserved Matters layout could be subject to changes).
- Other landscape and ecological enhancements also proposed, but not accounted for within the BNG calculation, (as detailed in paragraphs 6.11-6.17 of this SoCG). These additional enhancements could be secured by a suitably worded planning condition.

4.4 In addition to the above, the land outlined in blue to the north on the site location plan is also in the control of the Appellants. The Appellants propose that the land continues to be grazed, with informal access provided and maintained going forward. The appellants consider that this could be secured through a condition or legal agreement.

4.5 The current appeal proposal is also materially different to that considered by the Inspector previously at the site, namely:

- The previous proposal was for a larger development in terms of site area and the number of dwellings proposed. The proposal represents a 29% reduction in the amount of residential development when compared with the previous proposals (a reduction from up to 144 dwellings to up to 102 dwellings) and an increase in the amount of open space that will be provided. A comparison between the two red line boundaries, which informs the developable area is shown on the two illustrative masterplans contained below.



The previous proposal resulted in built form being located closer to the designated heritage assets to the north, and loss of a greater area of pastureland to the north.

- The current proposal proposes a lower percentage of affordable housing, being reduced from 50% to 40% of the proposed dwellings. 40% affordable housing meets the requirements of the SWDP.

5. RELEVANT PLANNING POLICY

- 5.1 The Development Plan relevant to the appeal proposals comprises the South Worcestershire Development Plan (SWDP) (2016) and the Waste Core Strategy for Worcestershire Adopted Waste Local Plan 2012-2027.
- 5.2 The SWDP covers the administrative areas of Malvern Hills District Council, Wychavon District Council and Worcester City Council (“the South Worcestershire Councils”). There is currently no neighbourhood plan relevant to the site.
- 5.3 The policies currently material to the determination of the appeal proposal are set out further below. All documents referred to will be included in the list of Core Documents.
- 5.4 Other relevant material considerations include:
- The National Planning Policy Framework (NPPF).
 - The Planning Practice Guidance (PPG).
 - Affordable Housing SPD – October 2016
 - Planning for Health SPD – September 2017
 - South Worcestershire Design Guide SPD - March 2018
 - Revised Developer Contributions SPD – July 2018
 - Water Management and Flooding SPD – July 2018
 - Renewable and Low Carbon Energy SPD – July 2018

South Worcestershire Development Plan

- Policy SWDP 1 – Overarching Sustainable Development Principles
- Policy SWDP 2 – Development Strategy and Hierarchy
- Policy SWDP 3 – Employment, Housing and Retail Provision Requirement Delivery
- Policy SWDP 6 – Historic Environment
- Policy SWDP 7 - Infrastructure
- Policy SWDP 15 – Meeting Affordable Housing Needs
- Policy SWDP 21 - Design
- Policy SWDP 24 – Management of the Historic Environment
- Policy SWDP 25 – Landscape Character
- Policy SWDP 39 – Provision for Green Space and Outdoor Community Uses in New Development

The emerging South Worcestershire Development Plan Review (SWDPR)

5.5 The South Worcestershire Councils (SWC) began a review of the SWDP in late 2017.

5.6 To date, the following consultations have taken place on the SWDPR:

- Initial Issues and Options Consultation (Regulation 18 i) - November and December 2018.
- Preferred Options (Regulation 18 ii) consultation - November and December 2019.
- Regulation 18 (iii) consultation, specifically targeted on the interim Preferred Options Sustainability Appraisal Report responding to issues raised to the document published alongside the Preferred Options in November 2019 - March / April 2021.
- Regulation 19 – a six week consultation period will end in December 2022.

5.7 The parties agree that the Regulation 19 version should only be attributed limited weight.

6. MATTERS OF AGREEMENT

6.1 The following matters are agreed between the Appellants and the Council:

Principle of Development

6.2 The appeal site falls outside the defined development boundary for Droitwich and therefore constitutes open countryside in planning policy terms. As the proposed development is not an exceptional circumstance of the type set out at Policy SWDP 2, it gives rise to conflict with Policy SWDP 2 C of the Development Plan.

6.3 It is agreed that Droitwich is defined as a main town within the SWDP, and the largest town in Wychavon. It is ranked second in the settlement hierarchy, after Worcester City, and is therefore considered one of the most sustainable locations for housing growth within the SWDP, outside of Worcester city.

6.4 The SWDP identifies Droitwich as an *“appropriate location to accommodate a proportion of south Worcestershire’s employment and housing growth over the next two decades.”* It is agreed that Policy SWDP2 at ‘Policy Implementation for Main Towns’ states that the three main towns (including Droitwich provide a comprehensive range of local services and employment opportunities for their residents and rural hinterland and will continue to be the focus of balanced growth in Wychavon and Malvern. It goes on to say that housing development and the necessary associated infrastructure in Main Towns will be delivered through urban extensions, other allocations and infill development within defined development boundaries. It is agreed that the proposal is located in a reasonably accessible location on the edge of Droitwich but conflicts with SWDP 2 B insofar that it is outside the defined development boundary and is not an allocated site.

6.5 It is agreed that the appeal proposal has reasonable proximity to Droitwich and it is agreed that this was the conclusion of Inspector Hill in her decision (paragraph 47). It is agreed that the site has reasonable proximity to shops, services and employment opportunities by alternative modes of transport, as outlined at Section 2 of this SoCG. It is agreed there is no conflict with Policy SWDP 4 in this regard.

- 6.6 The appellant considers that the site's location and proposed increased accessibility represents a benefit of the scheme which carries moderate weight. The Council considers that the increased accessibility to Droitwich through the provision of the footpath and cycle route to the south are a modest benefit of the proposed development to existing residents. The Council acknowledge the site has reasonable accessibility to Droitwich, but consider that the South Worcestershire Development Plan Review identifies emerging housing allocations at Droitwich to meet and exceed housing needs up to 2041 which are also accessible to Droitwich. As such, the Council considers that the accessibility of the site to Droitwich is a modest benefit.
- 6.7 It is agreed that the appeal site is not allocated in SWDP or the SWDP Review and it is agreed that the adopted SWDP and SWDP Review includes sites that are currently located outside of settlement boundaries to meet housing targets and are predominantly greenfield sites.

Housing Land Supply, The Presumption in favour of Sustainable Development NPPF Paragraph 11 and Footnote 7 policies

- 6.8 A separate SoCG on the matter of the Council's housing land supply position is being prepared.
- 6.9 It is agreed that the Council cannot currently demonstrate a 5YLS for the purposes of paragraph 74 of the NPPF. The appellant has proposed a shortened timeframe for submission of reserved matters and implementation of the permission. The appellants consider that this results in additional weight being given to the benefit of the delivery of housing in the context of the 5YHLS shortfall.
- 6.10 It is agreed that the only NPPF Footnote 7 restrictive policies that are in play for this appeal are those which relate designated heritage assets as set out in Section 16 of the NPPF and, more particularly being paragraph 199, 200 and 202 the NPPF.
- 6.11 It is agreed that if less than substantial harm to the significance of the affected heritage assets is not outweighed by the public benefits of the proposal then the tilted balance will be disapplied by virtue of paragraph 11(d)(i) NPPF. If on the other hand the public benefits do outweigh the less than substantial heritage harm the decision maker should consider the appeal against paragraph 11dii of the NPPF – 'the tilted balance'.

- 6.12 The Council considers that the application of policies in NPPF which protect areas or assets of particular importance; namely Section 16 of the NPPF and more particularly paragraphs 199, 200 and 202 of the NPPF which conserve and enhance designated heritage assets, provides a clear reason for refusing the proposed development.
- 6.13 The appellants considers that the public benefits in this case do outweigh the less than substantial heritage harm and that the proposal should then be determined in the context of the tilted planning balance.
- 6.14 Both parties agree that as the Council cannot demonstrate a 5-year supply of housing sites, the most important policies relevant to the appeal proposals are out of date and the weight attributed to those policies in the planning balance should be reduced. Both parties agree that, as set out in paragraph 12 of the NPPF, the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making.

Affordable Housing

- 6.15 It is agreed that the appeal proposal is capable of providing a policy compliant level of affordable housing (40%) through a completed s106 legal agreement, in accordance with Policy SWDP 15.

Housing Mix

- 6.17 It is agreed that the proposals could provide for an appropriate mix of house types, sizes and tenures in line with Policy SWDP 14. This can be agreed at a later stage and it is agreed that, should the appeal be allowed, that a planning condition should be imposed on the outline permission requiring the submission of a Market Housing Mix Statement.

Heritage

- 6.18 Heritage is addressed in a separate SoCG.

Significant Gap

- 6.19 The proposal is located outside of the Significant Gap. It therefore results in no conflict with Policy SWDP2 Part D, which states that development proposals should ensure the retention of the open character of the Significant Gaps.

Landscape and Visual Effects

6.20 Landscape is addressed in a separate SoCG.

Access and Highways

6.21 It is agreed that the proposals could provide for a safe and suitable means of access to the site for both vehicles and pedestrians from the A422. The Highway Authority responses to the application identify they have no objection to the principle of the proposed access arrangement.

6.22 It is agreed that the proposals would not have a severe residual adverse impact on the local highway network for the purposes of paragraph 111 of the NPPF.

6.23 The Highway Authority consultation response dated 14 June 2022 identifies that all the local schools servicing this development are within the statutory walking distance.

6.24 It is agreed that the site has reasonable proximity to Droitwich and has reasonable accessibility to shops, services and employment opportunities by alternative modes of transport.

6.25 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 is shown on the illustrative masterplan and could be provided at the reserved matters stage. It is agreed it 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. Even though it may be more circuitous for existing residents, it would nonetheless be of benefit to them. Inspector Hill identified that this was a modest benefit at paragraph 47 of her decision and both parties agree with the Inspector Hill's conclusions on the weight to be afforded to this modest benefit.

6.26 Overall, it is agreed there is no reason to refuse the appeal proposal on highways grounds having regard to Policy SWDP 4 of the Local Plan and Paragraph 111 of the NPPF.

Ecology and Biodiversity

6.27 It is agreed that the site has a limited biodiversity value. It is agreed that subject to securing the recommended mitigation through conditions, the proposals will not have an unacceptable impact on protected species and or habitats within the site.

- 6.28 The Appellants are prepared to commit to a minimum net biodiversity gain score of 20% for the scheme, which could be secured by condition or s106 agreement.
- 6.29 It is agreed the proposal is therefore compliant with Policy SWDP 22 in relation to biodiversity and paragraph 180 of the NPPF.

Flood risk and Drainage

- 6.30 The proposed built development is located within Flood Zone 1, lowest risk of flooding. A small part of the application site to the south is located in Flood Zone 3 however, no built development is proposed in this area.
- 6.31 The Council's drainage engineer has raised no objection to the appeal proposal. Furthermore, Severn Trent Water considered the application in relation to wastewater and raised no objections subject to conditions.
- 6.32 The proposals are considered acceptable in line with Policy SWDP 28 of the Local Plan and Paragraph 167 of the NPPF. The proposals will control the rate of discharge in extreme rainfall events, which will reduce downstream flooding. The appellants consider that this represents a benefit of the proposal which should be given limited weight.

Residential Amenity

- 6.33 In relation to impacts on neighbouring living conditions, at this stage the development proposed is outline with only access committed. Therefore, the height, design and siting of the proposed dwellings, as well as any landscaping, can be negotiated between the Council and Appellants at Reserved Matters stage to ensure living conditions of neighbours are taken into consideration. The previous appeal Inspector was satisfied that there would be adequate space to provide for a scheme which would meet normal requirements for privacy, outlook and daylight.
- 6.34 There is likely to be some noise and disturbance during the construction phase, however a condition can be applied requiring a construction management plan to manage these matters.

Noise and Air Quality

- 6.35 It is agreed that there is no objection to the appeal proposal on grounds related to noise or air quality, subject to conditions
- 6.36 It is agreed that noise from the railway can be adequately mitigated with acoustic boundary fencing according to the Noise Assessment submitted in support of the appeal

Contamination

- 6.37 It is agreed that there is no objection to the appeal proposal on contamination grounds, subject to conditions.

Design

- 6.38 It is agreed that the planning application was submitted in outline with access, layout, appearance, scale and landscaping of the development reserved for future consideration.
- 6.39 It is agreed that the detailed design and layout of the scheme is capable of being addressed at the Reserved Matters stage.

Agricultural Land Classification

- 6.40 It is agreed that proposal would result in loss of 0.06 ha of grade 2 agricultural land and 2.49 ha of grade 3a.
- 6.41 It is agreed that there are no significant effects on agriculture as a result of the proposed development. Nevertheless, it is agreed that the loss of best and most versatile land is an adverse impact arising from the proposal.
- 6.42 The Council consider that this is modest harm; the appellant says limited.

7. POINTS OF DISAGREEMENT

7.1 The points of disagreement are:

- The extent of the adverse impact resulting on the character and appearance of the local area.
- Whether the appeal site is a Valued Landscape and whether paragraph 174(a) of the NPPF is engaged in the decision-making process
- The effect of the proposal on the setting of designated heritage assets, and whether the public benefits of the proposal outweigh the harm to the affected designated heritage assets and whether the application of policies in the NPPF that protect areas or assets of particular importance provide a clear reason for the development proposed.
- Whether in principle, the appeal site offers an appropriate location for the proposal, having regard to the development plan's spatial strategy
- Whether the proposal is sustainable development.

8. SUGGESTED CONDITIONS AND S106 MATTERS

- 8.1 The Appellants intend to submit a legal agreement during the determination of the appeal to ensure the contributions sought by Wychavon District Council are secured and delivered.

- 8.2 The Appellants and Council will seek to agree an appropriate list of conditions in advance of the Inquiry to aid the Inspector in the determination of this appeal.