

Appeal Decision

Inquiry held on 9-12 and 16 February 2016

Site visit carried out on 17 February 2016.

by Mrs J A Vyse DipTP DipPBM MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 04 April 2016

Appeal Ref: APP/W1850/W/15/3009456

Land south of Leadon Way, Ledbury, Herefordshire HR8 2XX

- 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 Gladman Developments Limited against the decision of Herefordshire Council.
 - The application, No 143116 dated 14 October 2014, was refused by a notice dated 20 March 2015.
 - The development proposed is described on the planning application form as comprising the erection of up to 321 residential dwellings (including up to 35% affordable housing) structural planting and landscaping, informal open space, children's play area, surface water attenuation, vehicular access point from Leadon Way and associated ancillary works.
-

Decision

1. For the reasons that follow, the appeal is allowed and planning permission is granted for the erection of up to 321 residential dwellings (including up to 40% affordable housing) structural planting and landscaping, informal open space, children's play area, surface water attenuation, vehicular access point from Leadon Way and associated ancillary works on land south of Leadon Way, Ledbury, Herefordshire, in accordance with the terms of the application, No 143116, dated 14 October 2014, subject to the conditions set out in the attached schedule.

Preliminary and Procedural Matters

2. This is an outline application with all matters other than access reserved for future consideration should the appeal succeed. Whilst not formally part of the scheme, I have treated the submitted details relating to the reserved matters (appearance, landscaping, layout and scale) as a guide as to how the site might be developed. Although the plan of the proposed roundabout junction which would provide vehicular access to the site (Drg No 1394/10) is titled 'Indicative Roundabout Junction, it was confirmed in answer to my questions that 'indicative' related to the detailed means of construction, not to the location or geometry etc of the proposed junction. Access is a matter for consideration at this stage and I have determined the application on the basis of the arrangement shown on that plan.
3. Subsequent to the Council's decision on the application, the Core Strategy was adopted¹. As a consequence, the scheme has been amended to include 40% affordable housing provision to comply with Core Strategy policy H1.

¹ Herefordshire Local Plan Core Strategy 2011-2031 (adopted October 2015).

4. The appeal was accompanied by two statements of common ground, one relating to planning matters between the appellant and the Council dated January 2016 (SoGC1), the other dealing with highways, between the appellant and the local highway authority dated December 2015 (SoGC2).
5. One of the Council's reasons for refusal suggests that the scheme is premature and would be prejudicial to delivery of a strategic housing land allocation to the north of Ledbury (the viaduct site) as well as undermining the plan-making process by pre-determining decisions about the scale and location of new development in advance of the then emerging Core Strategy. However, the Core Strategy has now been adopted and SoCG1 confirms, among other things, that the Council would not be pursuing the second part of the reason for refusal. In answer to my questions at the Inquiry, the Council also confirmed that it was not presenting any evidence in relation to impact in relation to the deliverability of the viaduct site. In essence, it was no longer pursuing this reason for refusal.
6. The Council's written evidence refers to potential adverse impacts on tourism as a consequence of the development proposed. However, no substantiated evidence was presented to support that assertion and it was not pursued at the Inquiry.
7. Another of the reasons for refusal relates to the absence of a planning obligation. At the Inquiry, a completed obligation in the form of a unilateral undertaking was submitted.² It makes provision for the delivery of financial contributions towards education infrastructure, outdoor sports facilities, waste bins, bus stop provision, the making of a Traffic Regulation Order, and for the administration and monitoring of the obligation. In addition, it secures the provision of public open space within the site, including a play area, and arrangements for its subsequent management and maintenance. The undertaking is a material consideration in this case and is a matter to which I return later.
8. Affordable housing provision is not dealt with in the obligation. It was agreed with the Council that the necessary provision could be secured by planning condition were the appeal to succeed. Again, this is a matter to which I shall return.
9. Shortly after the close of the Inquiry, a judgement was handed down by the Court of Appeal (Civil Division) on appeal from the Administrative Court Planning Court.³ The judgment considers the proper interpretation and application of the National Planning Policy Framework, in particular paragraph 49. The judgment interprets and applies paragraph 49 but leaves flexibility with the decision maker to determine, in the circumstances before him/her, what policies fall within the ambit of paragraph 49, and how much weight to be given to them in the overall planning balance. Both the Council and the appellant were given the opportunity to provide further comment on the judgement. I have taken the comments received into account in coming to my decision.

² Doc 12

³ Mr Justice Supperstone [2015] EWHC 132 (Admin) Mrs Justice Lang [2015] EWHC 410 (Admin) Suffolk Coastal District Council and Hopkins Homes Limited and SSGLG, Richborough Estates Partnership LLP and Cheshire East Borough Council and SSGLG 17 March 2016 [2016] EWCA Civ 168

10. In March 2015 a second application for the same description of development as the application the subject of this appeal, was submitted to the Council. That was refused in June 2015. Local residents attending the Inquiry queried whether the Inquiry was dealing with the original application, the second application, or both. It was also suggested that local residents were not aware of the original planning application or the appeal and raised concerns about a site notice which apparently referred to an Inquiry on the same date at the same venue as this, but which, it subsequently transpired, related to development on a different site.
11. I confirmed that the appeal was against the original application only and that the Inquiry was proceeding on that basis. The Council confirmed that its public consultation procedure in relation to planning applications such as this, involved a press notice and site notices, with no individual letters of consultation sent other than to consultees. Copies of the press notice and photographs of the site notices posted were before me. The Council also confirmed that appeal notification letters had been sent out to those who had objected to the planning application. Again, details of that notification were before me. The appellant produced photographic evidence of the site notices posted in relation the appeal, including a map of where the notices were posted⁴. Those in attendance on the first day of the Inquiry included a number of Councillors and local residents and a number of written objections in relation the appeal were also before me. I am satisfied, therefore, having regard to the Council's standard practice in relation to the notifications, and the notifications that were sent out in relation the appeal, together with relevant press and site notices, that the necessary notifications in relation to both the application itself and the appeal were undertaken.
12. Early on in the proceedings, a local resident inferred that it would have been preferable for the Inquiry to have been held in Ledbury, as opposed to Hereford. However, there was no evidence before me to indicate that any such concerns had been raised in this regard with PINS or the Council before the event, or to demonstrate that any party had been prevented from attending or taking part in the proceedings as a consequence of the location of the Inquiry venue.
13. A local resident made reference later in the proceedings to the greater number of persons representing the appellant compared to those appearing for the Council. There was no suggestion on the part of the Council, which was represented by counsel who called three professional witnesses, that it felt unable in any way to properly present its case. I am mindful, however, of Article 6 of the European Convention on Human Rights, which seeks to ensure that people have an equal opportunity to put their case. Being very aware of the duties imposed on me as the appointed Inspector, in particular the duty to ensure that the Inquiry was conducted fairly and that all participants were afforded the opportunity to present their cases whilst observing the rules that govern the conduct of such events, I assisted those opposing the development, including local residents and local Councillors, to present their cases so far as I was able within the scope of the powers afforded to me and within the constraints of my own impartiality, having regard to the need to run proceedings as efficiently and effectively as possible. I am satisfied that the conditions under which objectors were able to present their cases was as fair

⁴ Doc 4

as it could be to all parties. As such, their European Convention rights in this regard have not been offended.

14. There is reference in the evidence before me to an emerging Neighbourhood Plan for Ledbury. However, as set out in SoCG1, that Plan is at an early stage of preparation with no timetable currently for its production, the Working Group having been recently disbanded. In the absence of any draft policies, the emerging Neighbourhood Plan cannot be afforded any material weight in my determination of this appeal.
15. In answer to my question as to whether anyone was looking to film or otherwise record the Inquiry proceedings, Councillor Harvey (Ledbury Town Council) advised that she would be tweeting about the proceedings and writing a regular blog. No one had any objections to that. I advised that anything posted should be done in a responsible manner.

Main Issues

16. These relate to:

- the Council's housing land supply position;
- the effect of the development on the character and appearance of the area, including the landscape setting of the settlement, the setting of listed buildings and Ledbury Conservation Area, and the setting of the Malvern Hills Area of Outstanding Natural Beauty;
- and whether, in the overall planning balance, the development would represent sustainable development in the terms of the National Planning Policy Framework.

Reasons for the Decision

Housing Land Supply

17. The development plan includes the Herefordshire Local Plan Core Strategy 2011-2031, adopted in October 2015. The Core Strategy does not allocate land directly and neither does it define any settlement boundaries. Rather it proposes broad, strategic directions for growth in sustainable locations, the intention being that subsequent plans will identify non-strategic sites to meet the need for identified development requirements for the county.
18. Policy SS2 confirms that there is a minimum requirement for 16,500 homes over the Plan period and that, outside Hereford, a minimum of 4,700 new homes will be focussed on the five market towns, including Ledbury. Policy SS3 confirms that a sufficient supply of housing land will be maintained in order to ensure delivery of the minimum targets set out in SS2. Policy LB1 confirms that Ledbury is expected to accommodate a minimum of 800 homes over the Plan period, the majority of which (around 625 new homes) is to be focussed to the north of the town on the viaduct site (policy LB2). A strategic location for new employment of around 12 hectares is also indicated to the west of the town. The policy goes on to state that further development will take place through the implementation of existing commitments, infill development and sites allocated through a Neighbourhood Development Plan. The appeal site, which lies to the south of the town, does not meet any of those requirements. On that basis, the development proposed would be

contrary to policies SS2, SS3 and LB1. I note though, that policy LB1 also states that a number of sites which have future potential for development have been identified in the Strategic Housing Land Availability Assessment (SHLAA). The appeal site is so identified, but with anticipated delivery in years 16-20 of the Plan period.

19. As set out in SoCG1, there is agreement that the policies referred to (SS2, SS3, LB1) are relevant to housing for the purposes of this appeal. The recent judgement referred to above has not changed that. Paragraph 49 of the National Planning Policy Framework (the Framework) sets out that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites.
20. At the time that the planning application was determined, the Council accepted that it could not demonstrate a five year supply of housing land. Since then, however, the Core Strategy has been adopted. On the evidence available to her at the time of the Examination⁵, the Core Strategy Inspector concluded that, on the basis of a minimum requirement of 16,500 homes over the Plan period, the Council could demonstrate a 5.24 years supply, which figure she considered to be marginal but realistic. The Core Strategy sets out a stepped approach to delivery of that requirement.
21. The Council's January 2016 housing land supply update⁶, sets out the position as of 1 April 2015, including completions. It suggests that whilst there has been a decline in supply from the Examination figure, the Council could demonstrate a 5.01 years supply. That was the Council's position going in to the Inquiry. However, in a further update submitted during the Inquiry, following the round table discussion on housing land supply, the Council confirmed that its supply was 5.00 years⁷.
22. It seems to me, that were delivery to be jeopardised on any of the sites relied on by the Council it could not, on its own evidence, demonstrate a five year supply. Indeed, the appellant advanced a much lower figure of 3.41 years⁸.
23. One area of concern to the appellant was the Council's completions data, which shows a significant increase in net completions for the year end April 2015 - 775 compared to 341, 201 and 331 in the first three years of the Plan period⁹. I was advised that in part, this was due to little time being spent on monitoring completions in the previous years (because officers were otherwise engaged in preparation of the Core Strategy) with the latest detailed examination in effect 'catching up' on completions from those years. On that basis, I see no problem in principle in including them now, since they evidentially contribute to the supply. There were also concerns that the data included completions between April-December 2015, the period during which completions for the year ending April 2015 were checked by officers, as well as concerns as to what constituted a 'completed' dwelling. Be that as it may, it seems to me that, provided the Council guard against double counting in relation to past and future years, and

⁵ As set out in the planning statement of common ground, the Inspector was considering the requirement side of the housing land supply calculation on the basis of completions up to 31 March 2014, but with the supply of sites as of 1 April 2015.

⁶ CD12.12 and appended to the evidence of Ms Riddle for the Council

⁷ Doc 9 (aka CD12.16)

⁸ Paragraph 9.6 of the evidence of Mr Lomas

⁹ Council's five year housing land supply (2015-2020) January 2016 update appended to the evidence of Ms Riddle

I am mindful in this regard that the appellant's allegations of double counting were shown not to be substantiated on production of additional evidence by the Council¹⁰, then there is no problem in principle with that approach.

24. Moving on then to the Council's housing land supply. The appellant took issue with the Council not applying a 'lapse rate' to its supply sites, arguing that it was industry standard practice to do so. For the Council, it was confirmed that, although the submission version of the Core Strategy did originally include reference to lapse rates, that had been removed in response to a request from the Examining Inspector.
25. I find no reference to including a lapse rate in the guidance for calculating supply as set out in the Government's Planning Practice Guidance (planning guidance). Whilst I quite recognise that expected delivery on some sites can slip, other sites may deliver more housing than was anticipated. Indeed, the Inquiry heard from the developer for one of the Strategic Urban Extension sites (the viaduct site) who suggested that delivery was likely to be greater there than had previously been anticipated. I recognise that other Inspectors have, on occasion, applied a lapse rate, as has the Secretary of State. However, the Core Strategy is of very recent date and the matter was given careful consideration by the Examining Inspector. I have no reason to come to a different view from that of my colleague and conclude that it is not appropriate to apply a generalised lapse rate to all the housing sites identified as part of the Council's five year supply. Rather, each site should be considered having regard to its own particular circumstances.
26. A paper setting out the respective positions of the main parties on the contested sites was submitted to the Inquiry at my request¹¹. They include committed sites, sites with planning permission and the allocated Strategic Urban Extensions (SUEs) none of which, as I understand things, currently benefits from planning permission.
27. Whilst each of the SUEs had been looked at in some detail during the Core Strategy Examination it is clear, when comparing the expected annualised trajectory as set out in the Core Strategy for those sites (which were expected to deliver 2,265 dwellings between 1 April 2015 and 31 March 2020)¹² against the Council's position at the Inquiry, as set out at Figure 3 of the January 2016 housing land supply update¹³, that it now relies on just 1,900 dwellings within that same period, a reduction of 365 dwellings. That is a concern, given that the stepped housing requirement set out in the Core Strategy is predicated on an expectation that the SUEs would deliver a far higher rate of completions later in the Plan period, allowing for longer lead in times. Even though the Core Strategy was adopted in October 2015, the figures relied on by the Council just three months later indicate early slippage in delivery. Whilst the latest trajectory includes increased build out rates on those sites in later years, no substantiated evidence was before me to support the Council's figures in this regard.
28. It also seems that the lead-in times for the SUE sites, as set out in the Council's January 2016 update and in the agreed summary of contested sites¹⁴

¹⁰ Doc 9 (aka CD12.16)

¹¹ CD12.13

¹² Appendix 4 to the Core Strategy

¹³ CD12.12

¹⁴ CD12.13

(nine months from submission of a full, hybrid or outline application to determination, including the submission of any necessary planning obligation, and a further three months for submission and approval of reserved matters in the case of outline permissions) might be ambitious in light of the timescales evidenced at Appendix 2 of its January 2016 Update. Of the 14 sites listed there under the heading 'Resolution to grant permission: sites April 2015', all but four took longer than nine months just between the date of the committee resolution to approve and the issuing of a decision notice, or had a resolution to grant permission which was more than nine months old at the time the list was compiled. That gives further cause for concern in relation to the anticipated delivery of at least some of the sites relied on.

29. Evidence was also before me in relation to a number of individual sites relied on by the Council, I shall only look in detail at a few, since the consequence of finding a deficiency in terms of delivery on just one, would have implications for the Council's five year supply.
30. The Gardner Butcher Garage site in Ross-on-Wye is expected to deliver 13 dwellings within the five year period. However, whilst full planning permission was obtained in February 2009 for such development, it was never implemented. Although a further detailed application was submitted just before that permission expired, and was approved, that expired in June 2015 without having been implemented. The site does not, therefore, currently benefit from planning permission. No further application for development of the site was drawn to my attention by the Council. Moreover, the site remains occupied by the garage, which would need to vacate the site/re-locate before development could commence. No substantiated evidence is before me in this regard, to demonstrate that the occupier is currently intending to close or is looking to re-locate. All in all, it seems unlikely that the site will deliver the anticipated 13 dwellings during the five year period 2015/2020.
31. No 101-105 St Owen Street Hereford comprises an operational tyre centre. An application for 21 dwellings was approved in August 2013 as a renewal of a previous 2010 approval, which itself was a renewal of an earlier 2007 permission. I was advised that the appellant had spoken with the managing director of the tyre business in January 2016 who confirmed, notwithstanding the extant planning permission, that the site would not be developed for residential purposes within the next five years as the company was not looking to relocate its business. Footnote 11 of the Framework sets out that sites with planning permission should be considered as deliverable unless there is clear evidence that schemes will not be implemented within five years. I fully recognise that the evidence of the appellant in this regard is anecdotal. However, no evidence was before me to demonstrate that the tyre company is currently looking to relocate. Even if it were (contrary to the apparent advice of the managing director) there would still be a time lag which would have implications for implementation of the permission. That would have knock-on implications for delivery of completed dwellings on the site.
32. A further site, Barons Cross, a former war time camp on the western edge of Leominster, is anticipated to deliver 425 homes within the five year period. An update on this was provided by the Council to the Inquiry¹⁵. It was a housing allocation site in the previous Unitary Development Plan and is in the current

¹⁵ CD12.14

- Leominster Plan. Outline planning permission was granted in 2006 and at least some reserved matters have since been approved. Although an application to extend the time for implementation was lodged in March 2012, that remains undetermined. I recognise that the need for ecological surveys and the need to address a recently diagnosed phosphate issue in the county had led to delays, but those matters are now resolved. That said, the Council also confirms that whilst there is currently an outline permission for the site, the owners wanted the final future developer to deal with the reserved matters, the previous reserved matters approved now considered as being out of date.
33. The current owner is preparing to dispose of the site which has recently been advertised. The Council is of the view that preparatory works would commence in Spring this year with around 50 units to be completed in 2016, with an increase per year thereafter. However, that seems to me to be very ambitious since, at the time of the Inquiry, no developer was on board and, as such, work is unlikely to be underway in the preparation of new reserved matters applications. In any event, on its own evidence, the Council appears to be taking around three months to determine reserved matters applications. All in all, it seems unlikely to me that delivery is likely to come forward at the rate anticipated by the Council, although I do not agree that it should be discounted altogether from the five year supply as suggested by the appellant.
34. I recognise that the Core Strategy has been adopted only recently. However, circumstances relating to housing land supply are fluid, even over relatively short periods of time. In this instance, looking at just three of the sites relied on by the Council, and being mindful of the early slippage in delivery on some of the SUE sites, combined with what appear to be ambitious lead in times for others, I am not persuaded that the Council can demonstrate a robust five year housing land supply at the current time.
35. Policy SS3 of the Core Strategy indicates that the rate of housing will be assessed through annual monitoring. If that demonstrates that the number of new dwelling completions is below the cumulative target figure over a twelve month period as set out in the trajectory at Appendix 4 of the Core Strategy, the Council will prioritise increasing housing supply in the following period using appropriate mechanisms. A short list follows, of three possible measures that might be considered. I do not see that list as being a closed list. It is introduced as appropriate mechanisms which *will include* (my emphasis) the measures that are then set out.
36. One of the potential actions is the preparation of an interim position statement and utilisation of evidence from the Strategic Housing Land Availability Assessment (SHLAA) to identify additional land. I note, in this regard, that paragraph 1.37 of the Core Strategy advises that various measures are already in place to ensure that sites come forward as planned and that measures that can be taken if they do not, including bringing forward sites identified as being deliverable and developable in the 2012 SHLAA if there are unforeseen constraints to larger strategic sites being developed as planned.
37. I have found a shortfall in the Council's five year housing land supply that needs addressing now, which conclusion derives in part from what appears, on the evidence, to be an ongoing slippage in delivery on some of the SUEs. The appeal site is identified in both the 2011 SHLAA and the 2012 Second Review as a greenfield site that is suitable for development, achievable and available,

with a potential capacity for 300 dwellings. Indeed, it was confirmed at the Inquiry that the site is available for development now, with no physical or infrastructure constraints. I recognise that identification of a site in a SHLAA does not indicate that it will necessarily be successful in obtaining planning permission, nor is it a guarantee that it will be allocated for residential development in any new plan. Nevertheless, it is an indication that it has been assessed as having the potential to deliver housing within the Plan period. Given my finding on housing land supply, development of the appeal site would not it seems to me, offend policy SS3.

38. In the absence of a five year supply, and pursuant to paragraph 49 of the Framework, policies SS2, SS3, LB1 are not to be considered as up-to-date for the purposes of this appeal. In these circumstances, paragraph 14 of the Framework advises that 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 Framework taken as a whole. I am mindful, in this regard, that the Council accepted that there will be instances where the minimum growth targets of the Core Strategy are exceeded over the Plan period through the granting of planning permissions that represent sustainable development. It was also accepted that exceeding the minimum target would not, of itself, amount to harm. Rather, it is the environmental impact of a development that needs to be considered, including landscape and townscape setting.

Character and Appearance

39. The historic core of Ledbury, a market town with historic parkland to the east, occupies a slightly elevated position at the foot of the Malvern Hills. These steeply sloping wooded hills (the Malvern Hills AONB) run roughly north/south and bound Ledbury along its eastern edge. Ledbury, and the appeal site, lie outwith the AONB. Modern development, predominantly housing, has extended down the lower slopes of the hills to the edge of the River Leadon floodplain, where the by-pass (Leadon Way) is routed, including a post-war residential estate (Martins Way) adjacent to the northern side of this part of the by-pass.
40. The appeal site, which extends to some 13.33 hectares, is located on the southern side of Ledbury, immediately to the south of the by-pass, outside the main built up area of the town. It lies close to a five arm roundabout junction (the Full Pitcher roundabout) where the by-pass and B4126 Dymock Road converge – Leadon Way runs along the northern site boundary, Dymock Road abuts the south-western boundary. The site comprises two large arable fields bisected by a hedgerow and is separated from the Full Pitcher roundabout by a small triangle of agricultural land.
41. Whilst the roadside and eastern field boundaries are defined by hedgerows, the long southern boundary of the site with adjoining fields comprises post and wire fencing. The site is gently undulating but in essence, levels rise gently from the north-western corner (closest to the roundabout) to the south-eastern corner. As a consequence of its gently rolling topography, parts of the site are more visible than others in the wider context. That said, views towards the site are limited giving it a degree of containment. The south-eastern corner of the site abuts a pocket of established woodland. Other than partially hedged boundaries and occasional trees (there are two in-field trees, only one of which

is suitable for retention, and two hedgerow trees) the site itself has very little in the way of distinguishing features. The landscape is not the subject of any particular designation, although the Malvern Hills AONB lies to the east/north-east, approximately 600 metres away at its closest point.

42. The site lies at the north-western extent of the Principal Timbered Farmlands (PTF) Landscape Character Area as identified by the Council's Landscape Character Assessment 2004. Key characteristics of the landscape type include hedgerows defining field boundaries, an ancient wooded character portrayed by hedgerow trees and woodland, and densely scattered hedgerow trees with filtered views between. Secondary characteristics include organic enclosure patterns and small scale landscapes.
43. The site also lies within the Ledbury Farmlands (south) landscape zone, as identified in the Council's Urban Fringe Sensitivity Analysis (2010), produced to support its Strategic Housing Land Availability Assessment with the aim of classifying the level of landscape sensitivity of the urban fringes of Hereford and the market towns, including Ledbury. The landscape zone is described as having high-medium sensitivity where key landscape characteristics are vulnerable to change and/or have a high value as a landscape resource. I am mindful, however, that the assessment is made at a broad scale and is not a capacity study.
44. The appeal site is separated from Ledbury by Leadon Way. However, I am not persuaded that it is wholly divorced from the built extent or influence of the town. The Council's evidence, supported by the Sensitivity Analysis, confirms that the landscape baseline of the area immediately to the south of Ledbury, including the appeal site, is significantly degraded due to the loss of hedgerows and subsequent increase in field size, and the absence of hedgerow trees. Moreover, on closer examination, numerous urban influences are at play: whilst the appeal site itself is undeveloped, its immediate surroundings include the by-pass along its northern boundary and the busy roundabout junction to the north-west, with its associated lighting; the Full Pitcher public house which fronts onto the roundabout; the post-war Martins Way housing estate which, although lying behind a landscaped buffer that runs along the northern side of this section of the by-pass, is a noticeable presence; a small retail/industrial park immediately to the south of the roundabout, fronting onto the B4126 (Dymock Road); and Hazel Farm, the Granary and associated farm buildings on Dymock Road some 100 metres or so south of the industrial estate, which buildings have been converted to residential use. In addition, the sports ground between the Martins Way estate and The Full Pitcher public house benefits from a recent, but as yet unimplemented, permission for 100 dwellings.
45. Rolling farmland lies to the south and east of the appeal site, together with pockets of woodland. That smaller scale, more intimate landscape and enclosure is more typical of the landscape character type. It seems to me therefore, that the appeal site forms part of the transition from the built up area to the countryside beyond, and there is a clear contrast between the open and degraded nature of the appeal site in terms of its landscape character type, and its surroundings to the south and east.
46. It is proposed to erect up to 321 dwellings on the appeal site, together with areas of public open space, landscaping and attenuation pond which would

form part of a sustainable drainage scheme. The Development Framework Plan submitted with the application (Drg No 5501/ASP03 Rev L) indicates that built development would be confined to the lower parts of site where possible, avoiding both the steeper and more elevated areas, which areas would be laid out as public open space. Vehicular access would be via a new roundabout junction that would be formed on Leadon Way, opposite Martins Way, a residential estate road that provides access off Leadon Way to the existing housing estate on the northern side of the by-pass. A pedestrian/cycle way is also proposed along both sides of Leadon Way between the new roundabout and the Full Pitcher roundabout to the west, that on the southern side returning along Dymock Road. In turn, that would link to one of two proposed pedestrian links to the site off Dymock Road to a proposed permissive footpath around the perimeter of the appeal site.

47. In terms of landscape character, the development would extend the built form of the town into its rural setting and, given the open greenfield nature of the site, it would clearly result in a significant change to its appearance. It would not, however, result in the loss or erosion of landscape elements that are typical of this landscape character type.
48. In terms of longer range views, the wooded nature of the slopes on this side of the Malvern Hills generally limits outward views from public vantage points towards the appeal site. The LVIA refers to one viewpoint from within the AONB (Bradlow Knoll to the north east of Ledbury). The appellant's landscape evidence to the Inquiry included an additional viewpoint, from a footpath adjacent to Underdown, an Unregistered Historic Park and Garden in an elevated location within the AONB to the east of the appeal site. As well as visiting those, I was also taken to other vantage points along a woodland track within the AONB during the site visit.
49. In all those views, the appeal site is seen at quite some distance and in the context of the wider built development in Ledbury itself and that around the Full Pitcher roundabout. It is seen as sitting in a gently undulating landscape with pockets of woodland, including one at the south-eastern corner of the appeal site which affords a heightened degree of containment to the site when viewed from the east. In those surroundings, and having regard to the panoramic nature of the limited views that there are, the development proposed would, to my mind, result at most in a change of low magnitude but, given the very high sensitivity of the receptor, the significance of that change would be moderate, reducing to moderate/minor after ten years or so as planting on the site becomes established. The appeal site comprises a very minor component in a much larger landscape. With landscape mitigation, I am satisfied that there would be no material harm to views of the surrounding area from the AONB, on its overall setting, or its special qualities.
50. The appeal site is barely perceptible in the much longer range views from Marcle Ridge, some 6.5 kilometres away to the west. Consequently, particularly when landscape mitigation is taken in to account, the development proposed would, if noticeable at all given the distance involved, represent a negligible change, with no material impact on views from the Ridge, or on its landscape setting.

51. In terms of closer range views, the evidence at the Inquiry focussed on views towards the town from Dymock Road, from Leadon Way, and from public footpath LR7, which crosses land to the east of the appeal site.
52. When heading north along Dymock Road, the curvature of the road and the undulating topography conceals most of the appeal site from view until close to it. On approach, the complex of buildings at Hazel Farm is seen on the left, behind an area of tree planting, with the main settlement of Ledbury seen across the fields to the right. As one crests a rise in Dymock Road adjacent to the site, further urban influences are readily apparent, including the buildings on the retail/industrial park, the Full Pitcher public house and houses beyond, together with the site the subject of the extant permission for 100 dwellings and the main part of Ledbury beyond, on rising land.
53. The appeal scheme would result in a noticeable and significant degree of change when viewed from Dymock Road, the introduction of built development onto the currently open appeal site extending built development into an agricultural landscape. However, given the context set out above, the development would not introduce new or unexpected components into the view and thus would not be wholly incompatible with the existing character of the immediate area. Moreover, the site is visually well contained despite its size. Nevertheless, there would be a high magnitude of change. I agree with the Council that the significance of that change on road users (considered to be of low sensitivity) would, in the language of the LVIA, be moderate. Over time, the significance of that would reduce to minor through the setting back of the development from the boundary together with boundary planting (layout and planting being matters reserved for future consideration) which would allow for the provision of a robust green edge. The development would also provide opportunities to reintroduce landscape elements typical of the Principal Timbered Farmlands such as woodland planting and vegetated field boundaries, with the trees creating a more enclosed, more intimate small scale landscape.
54. The Full Pitcher roundabout on the by-pass is a busy junction where Dymock Road crosses Leadon Way, with Ross Road joining from the west and New Street joining from the east. When seen from the roundabout, the open nature of the site boundary with the triangular field which fronts on to the roundabout, and the rising topography, mean that views into the appeal site are more widely available from here. That is, in part, as a consequence of the degradation of features which are characteristic of the Principal Timbered Farmlands landscape. From this aspect however the site is, in effect, sandwiched between the industrial estate to the right and the Full Pitcher pub to the left, with further development on the left to come in the future given the recent permission on the sports pitch. Whilst the development proposed would result in a noticeable change, introducing built development into an agricultural landscape it would not, given the context set out above, introduce new or unexpected components and thus would not be wholly incompatible with the existing character of the immediate area.
55. It seems to me that the significance of that change on road users would be moderate/minor. As set out above, it is intended that the development would be set back from the boundary and boundary planting (layout and planting being matters reserved for future consideration) would allow for the provision of a robust green edge, reintroducing landscape elements typical of the landscape type. In addition, the Council's own green Infrastructure Strategy

(GIS) specifically envisages linear woodland planting along the southern (appeal site) side of the by-pass. That would reflect the planting on the opposite side of the road alongside the Martins Way development. Although some improvement to the existing settlement edge could potentially be undertaken independently of the appeal proposal, the Council could not point me to any evidence to suggest that this is reasonably likely to occur within the foreseeable future. All in all, it seems to me that, over time, the significance of that change would reduce to minor.

56. Public footpath LR7 runs north/south to the east of the appeal site on higher land, linking the south-eastern urban edge of Ledbury to Hillfield and Pyes Nest to the south. Whilst part of the site is screened in views to the west from the footpath, by the intervening woodland block, development within the western and south-western part of the site would be clearly seen giving rise to a significant but localised change largely, it seems to me, as a consequence of the degradation of landscape features. Moreover, existing built form is already a part, although not a significant part, of those views. I consider that the development would represent a high magnitude of change upon a high sensitivity receptor (users of the footpath) resulting in a major/moderate significance of effect. Over time, that would reduce to moderate/minor through the setting back of the development from the boundary and boundary planting.
57. The Council expressed concern about the visual impact of close boarded fencing around the perimeter of the site, particularly along Leadon Way and Dymock Road. However, matters relating to layout and landscaping are reserved for future consideration, and thus are within the control of the Council. The Development Framework Plan submitted with the application (Drg No 5501/ASP03 Rev L) refers to a robust green buffer along Leadon Way. I have no reason to suppose that it would not be possible to secure a layout that allowed for this and which would screen the fencing from view. The same could be secured along the Dymock Road frontage.
58. The Council also expressed concern that the impact of lighting had not been considered. However, Martins Way is lit, as are the other estate roads, and lighting from that existing housing will also be in evidence at night time. The same goes for the adjacent industrial/retail estate. In addition, the approaches to the roundabout junction are lit. Lighting on the appeal site would be a matter that would be dealt with through detailed submission at a later stage, were the appeal to succeed. In its context, I am not persuaded that there would be any additional harm as a consequence of lighting that has not already been addressed by assessing the physical impact of the development proposed as set out above.
59. Paragraph 109 of the Framework states that the planning system should contribute to and enhance the natural and local environment by (amongst other matters) protecting and enhancing valued landscapes, although the term 'valued landscapes' is not defined. The landscape here is clearly valued by local people. Nonetheless, I am not persuaded that the appeal site includes specific attributes or landscape features which would take it out of the ordinary, sufficient for it to amount to a 'valued landscape' in terms of the Framework.
60. There is no suggestion in the reasons for refusal that the development proposed would have any adverse impact on the significance of any heritage

asset, either directly, or indirectly, although there is reference in the Council's landscape evidence to an effect on the setting of Underdown, a grade II listed house to the east of the appeal site, below Conygree Wood within the AONB. However, concerns were raised by local residents in relation to the setting of various heritage assets.

61. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard be given to the desirability of preserving the setting of listed buildings. Whilst no statutory protection is afforded to the setting of other heritage assets, paragraphs 128 and 129 of the Framework require an assessment of the significance of heritage assets that might be affected by a development proposal, including any contribution to significance made by their setting. The setting of a heritage asset embraces all of the surroundings from which it can be experienced. In essence, if the development proposed could be seen from, or in conjunction with any heritage asset, then there would be an impact on the setting of that asset. An assessment is then required as to whether that impact would harm its heritage significance.
62. The edge of Ledbury Conservation Area lies approximately 0.72 kilometres to the north-east of the appeal site. The Conservation Area contains numerous listed buildings, including the grade I listed church of St Michael and All Angels. In as much as the bell-tower spire of the church can be seen, together with the roofs of other buildings, then the Conservation Area can be said to be experienced from the site. As a consequence, the appeal site lies within its setting.
63. No formal Conservation Area appraisal was drawn to my attention. However, the appeal site is separated from the Conservation Area by intervening post-war residential development (Martins Way estate) and the John Masefield High School, with the consequence that there is little, if any, awareness of the presence of these fields from within the Conservation Area. On that basis, I am not persuaded that, in its present form, the appeal site makes any contribution to the heritage significance of the Conservation Area which derives, it seems to me, from its history as a market town and its architecture, including numerous listed buildings. I find no harm therefore, to its significance.
64. There are listed buildings within the Conservation Area and also on Dymock Road. The grade I listed church lies approximately 1.2 kilometres north-east of the appeal site in the centre of the town. It is of red sandstone, dating from the C12 and is Early English in style with a detached bell-tower. Its special interest derives not only from its age, history, form, architecture and appearance, but also its communal value as a place of worship and focal point for the community over the years. It is a key landmark within the town. The elements of setting that contribute to its heritage significance include its relationship with the churchyard and the historic monuments within it, and the adjacent Abbot's Lodge, itself grade II* listed. However, the church also has a wider setting. Indeed, its distinctive bell-tower spire can be seen from more than one kilometre away, including from the appeal site. However, given the distance involved, combined with the fact that the intervening land is already developed, I am not persuaded that the appeal site makes any contribution to the heritage significance of the church. As a consequence I find that the special interest and significance of the listed building, and its setting, would be

preserved. No other listed buildings within the Conservation Area were specifically drawn to my attention in relation to the appeal site.

65. Underdown is a small grade II listed country house that dates from the late C18. It lies to the east of the appeal site, occupying a slightly elevated position on the lower slopes of the Malvern Hills. It sits within its own landscaped park, an Unregistered Historic Park and Garden, facing out across the River Leaddon corridor, taking in views of the wider countryside including the appeal site. It seems to me that the special interest of the listed building derives from its architectural/ aesthetic and historic values and that its setting is largely defined by its landscaped grounds. Whilst the Council's Urban Fringe Sensitivity Analysis comments that the retention of open countryside to the south of Ledbury by-pass has conserved the wider setting of Underdown and its associated parkland, that is not the same as that setting contributing to its heritage significance. In my view, the degree of separation between the appeal site and the house leads me to the view that the setting of the asset (which I have taken to be the house together with its landscaped grounds) and thus any significance that derives from its wider setting, would not be diminished by the development proposed and I find no harm in this regard.
66. Closer to the appeal site on Dymock Road are the grade II listed Hazel Farmhouse and Granary, also grade II listed. The two storey farmhouse is of C17 origin, altered in the C18 with later alterations. It is split into two distinct elements, the main and original range and a later dairy wing. The associated Granary dates from the mid-C18. It is of two storeys constructed around a timber frame. As mentioned earlier, the Granary, together with other later buildings within the complex, has been altered and converted to residential use, with the consequence that their original functional association with the farmhouse has largely been eroded. The complex sits well back from the road behind an area of tree planting. There is nothing to indicate, apart from any former agricultural use, that the appeal site had any formal relationship or designed vistas across it related to the farmhouse or Granary. Whilst the buildings can be appreciated in views from Dymock Road, those views would not change as a consequence of the development proposed, the appeal site being on the opposite side of the road and thus behind anyone looking at the farm complex. All in all, I consider that the appeal site contributes little, if anything, to the significance of the listed buildings or their setting. As such, the ability to appreciate and understand their past connection with agricultural use would not be materially affected by development of the application site. I find, therefore, that the special interest and significance of the listed buildings, and their setting, would not be preserved.
67. To conclude on this issue, I find no harm in terms of any impact on heritage assets, or to the special qualities of the AONB and its setting. It is undeniable however, that were the development to go ahead, those living adjacent to the appeal site, or passing close by, would look out on a residential development rather than open fields. That said, whilst the appeal site lies within the Principal Timbered Farmlands, the key characteristics of the landscape type are missing here, to the extent that this part of the character area is described by the Council as being degraded. As such, it contributes little to the character of the wider landscape. Moreover, notwithstanding its open agricultural use, the site is seen in the context of the established urban edge of the town, where built development is clearly discernable including the by-pass itself and the busy Full Pitcher roundabout, the public house, the Martins Way housing

estate, a retail/industrial park and a converted farm complex. In addition, there is an extant planning permission for 100 dwellings adjacent to the public house. Whilst the development would permanently extend built development into the countryside I am satisfied, taking account of the local topography, the relatively constrained nature of the site, the illustrative landscaping and areas of open space proposed, together with intended siting of built development on the lower parts of the site (all of which matters would be under the control of the local planning authority) that the harm I have identified would be localised. There would, nevertheless, be conflict with Core Strategy policies SS6, LD1 and LD3, which together seek to protect such interests.

68. The appellant maintains that the recent court judgement referred to above means that policies SS6 and LD1 are relevant to the supply of housing and thus should be considered as being out-of-date. I do not agree. Together with policy SS3, they are environmental qualitative policies. They are not locational policies that seek to restrict development. As such, they continue to attract due weight as up-to-date development plan policies.

Other Matters

69. The planning application was supported by a Transport Assessment which demonstrates, to the satisfaction of the highway authority¹⁶, that the proposed access arrangements would be safe, subject to the introduction of a 40 mph speed limit along this part of Leadon Way. The scheme also includes proposals to improve the existing pedestrian/cycle infrastructure in the vicinity of the site, including the introduction of a toucan crossing on Leadon Way, a footway/cycleway on both sides of the by-pass between the proposed roundabout and the Full Pitcher roundabout and along Dymock Road (Drg No 1394/10) and the introduction of additional footway lengths on Martins Way (Drg No 1394/11) which would ensure a safe walking/cycling environment from the appeal site to the local services and facilities. In addition, to encourage public transport use, a new bus stop and shelter are proposed on Martins Way, plus the erection of a bus shelter at the existing bus stop there.
70. Whilst local residents queried the space available within the highway verges for provision of the proposed footway/cycleway links, the measurements taken during the site visit demonstrated that the arrangement proposed could be provided wholly within highway land, although some roadside vegetation would need to be trimmed back in places and/or removed.
71. The appeal site lies immediately adjacent to the existing built up area of Ledbury, a recognised sustainable location within the District. The site lies within 1.6 kilometres of the town centre, well within the 2 kilometre walking distance usually considered as offering the greatest potential for replacing short car trips. Cycling also has the potential to substitute for short car trips of up to 5 kilometres. I note, in this regard, that Ledbury railway station lies within 2.5 kilometres of the site. There is a bus stop on Martins Way within 400 metres of the appeal site and others within 800 metres. Typically there are two-three buses an hour Monday- Saturday during the day. Destinations include Gloucester, Hereford, Bromyard, Cheltenham, Great Malvern, Tewkesbury, Ross and Ledbury town centre. Some services also connect to the railway station. All in all, it seems to me that the appeal site provides a good context for journeys to be undertaken by foot and by cycle to access everyday services,

¹⁶ SoCG2

facilities and amenities that would be required by future occupiers on a daily basis and that a range of destinations that are accessible from the site by public transport, including amenity and employment locations.

72. The Provisional Agricultural Land Classification Map for Herefordshire suggests that the appeal site comprises grade 1 and 2 agricultural land, which is classed as Best and Most Versatile land (Grades 1, 2 and 3a). However, the appellant commissioned a detailed soil survey of the appeal site, which demonstrates that only some 12% of the site is in the Best and Most Versatile category, the remainder being 3b. On that basis, I am satisfied that the appeal scheme would not, having regard to paragraph 112 of the Framework, result in a significant loss of such land. That detailed survey would also remove an apparent constraint in relation to development of the site as set out in the SHLAA, which records the site as grade 1 and 2 agricultural land.
73. A local resident expressed concerns in relation to local flooding events. However, no substantiated evidence was submitted to demonstrate that the flooding referred to affected the appeal site. The flood risk assessment submitted with the application confirms that the site lies within Flood Zone 1 and the Environment Agency has not raised any objection to the proposal. A sustainable drainage scheme is also proposed for the site, which could be secured by condition were the appeal to succeed.
74. Dominant noise sources likely to affect future occupiers are the adjacent industrial units and traffic on Leadon Way and Dymock Road. The appellant's noise report sets out various mitigation measures which could be secured by condition. The measurements that provided the baseline for the conclusions in the report do not, it transpired, take account of the proposed roundabout on Leadon Way which would, potentially, introduce noise from vehicles braking on approach, and accelerating away from it. I have no reason to suppose, however, that associated noise would preclude development on the appeal site and I am satisfied that an appropriately worded condition could deal with the matter and would ensure that acceptable living conditions were provided for future occupiers. In terms of the living conditions of existing residents on the Martins Way estate, no substantiated evidence was before me to demonstrate that those traffic movements would cause material problems in terms of noise. Indeed the existing properties are set well back from Leadon Way behind a well vegetated roadside bund.

Planning Obligations

75. Consideration of planning obligations is to be undertaken in the light of the advice at paragraph 204 of the National Planning Policy Framework and the statutory requirements of Regulations 122 and 123 of the Community Infrastructure Levy Regulations. These require that planning obligations may only constitute a reason for granting planning permission where they are necessary to make the development acceptable in planning terms; are directly related to the development; are fairly and reasonably related in scale and kind to it; and, since April 2015, must not be a pooled contribution where more than five such pooled contributions have already been collected.
76. The undertaking includes a provision whereby, should I determine that any obligation provided for therein is not a material planning consideration, can be given little or no weight, or does not comply with Community Infrastructure

- (CIL) Regulations 122 or 123, that obligation would not be enforceable and would cease to have effect.
77. All of the obligations were explored in detail at the Inquiry, informed by the Council's updated CIL compliance statement¹⁷.
78. Education: The undertaking secures the payment of a contribution towards education provision at the nearby Ledbury Primary School. The figure would be calculated by a formula set out in the Council's SPD¹⁸, the final amount depending on the eventual number and type of dwellings that would be provided at reserved matters stage were the appeal to succeed. It was confirmed that the contribution would go towards extending existing classroom accommodation at the school, the school currently being at capacity. The Council confirmed that it had received only two other contributions for education improvements at the school since April 2010. I am satisfied therefore, that the contribution secured, which is supported by policy ID1 of the Core Strategy and paragraph 72 of the Framework, meets the relevant tests. Although contributions were originally sought in relation to other education establishments, those were not pursued at the Inquiry.
79. Outdoor sports: The basis for the Council's requested contribution, as set out in the latest version of its updated CIL Compliance Statement, relates to an overall required sum of £496,000 for specific enhanced football and rugby playing pitch provision as identified in the Council's Playing Pitch Assessment 2012, divided by 673¹⁹, to give a per dwelling figure which, multiplied by the number of open market dwellings proposed (193) gives a figure of £142,240. The CIL Compliance Statement confirms that this approach supersedes that set out in the SPD. It also confirms that no planning obligations since April 2010 have provided for such contributions.
80. The approach adopted by the Council seems to me to have a number of shortcomings, not least the possibility that if a number of smaller schemes were to come forward and were required to make a contribution towards these facilities, then the restriction on pooled contributions may come in to play before the required total is provided for. On its face, however, in relation to this appeal, I agree that the calculation appears to be fair and reasonable as the provision would be proportionate to the maximum number of open market dwellings to be provided and would help meet an identified need, which need would be exacerbated by the introduction of additional residents to the area. It is also supported by policy ID1 of the Core Strategy and paragraph 73 of the Framework.
81. The undertaking makes provision for a sum of £131,040 (as opposed to £142,240) which figure had been agreed with the Council, the larger figure only being notified to the appellant on the morning of the related discussion at the Inquiry. The CIL Compliance Statement acknowledges that, but takes the pragmatic view that it would still make a significant contribution towards the identified improvements required. It also goes some way to addressing concerns I raised at the Inquiry, in the event that less than 193 open market dwellings were provided on the site, given that a flat rate figure is secured as

¹⁷ Doc 15

¹⁸ CD12.6

¹⁹ This figure is the minimum number of open market dwellings to be provided over the Plan period (800 – 40% affordable housing = 480) plus those provided by the appeal scheme (321- 40% affordable units = 193)

opposed to a formula related to the eventual number of dwellings. All in all though, I am satisfied that the relevant tests for the contribution have been met.

82. Waste: The Council sought a contribution of £80 per dwelling towards the provision of one waste and one recycling bin for each household to facilitate waste collection. I was advised that the sum reflected the cost price of the bins. Whilst the appellant maintained that bins should be provided through Council Tax revenues, the Council argued that, absent a contribution, the cost burden would be placed on existing tax payers. No policy support for this particular contribution was drawn to my attention in either the Core Strategy or in any supplementary planning documents. I am not persuaded therefore, on the basis of the information before me, that the contribution sought meets the relevant tests, particularly that of being necessary to make the development acceptable in planning terms.
83. Bus stops: To support the delivery of sustainable transport opportunities for future occupiers, a contribution of £20,000 is secured towards the provision of a new bus stop and shelter on the west side of Martins Way, plus the provision of a shelter at the existing bus stop on the east side of the road, together with associated kerbing works, ground works, drainage works and design. Although the bus stops are an infrastructure project, the Council confirmed that it had received no other contributions for this purpose to date. I am satisfied that the provision secured in this regard meets the relevant tests.
84. Traffic Regulation Order: As set out in the highways evidence, it is necessary, in the interest of highway safety, to introduce a 40 mph speed limit in relation to the development proposed for that stretch of the A417 Leaddon Way between the Full Pitcher roundabout and a point east of the proposed roundabout access to the appeal site. The undertaking includes a sum of £5,000 towards the costs of making, advertising, consulting on and confirming such an Order. I am satisfied that the contribution secured meets the relevant tests.
85. Monitoring: In addition to agreeing to the payment of a sum not to exceed £500 for the reasonable and proper legal costs in the Council's assessment of the deed, the undertaking secures a sum of £300 towards monitoring of the various planning obligations as an obligation itself. The appellant drew my attention in this regard, to a recent High Court judgement which looked at this matter, among other things²⁰.
86. The judgement is clear that there is nothing in statute, regulation or guidance which suggests that authorities could, or should, claim administration and monitoring fees as part of planning obligations. Indeed, it is significant that the Secretary of State has decided not to make provision for the payment of such. The judge found that an Inspector is entitled to consider that such fees would be met from a Council's core budget. She also noted that the application in that case was 'routine' and for a 'relatively small development' of up to 85 dwellings, and that no individualised assessment of special costs liable to be incurred had been provided by the Council. That is a matter of planning judgement.
87. In the case before me, whilst maintaining that phasing arrangements are likely to be complex, particularly given the scale of the development proposed (up to

²⁰ Oxfordshire CC v Secretary of State for Communities and Local Government [2015] EWHC 186 (Admin)

321 dwellings) and the likely involvement of more than one developer, the Council accepted, as set out in the CIL Compliance Statement, that the administration and monitoring likely to be required would not be so exceptional that the payment of a contribution is needed to make the development acceptable in planning terms and so meet the relevant tests. I have no reason to come to a different view.

88. Open Space: The undertaking also secures arrangements for the laying out of the Open Space within the appeal site (comprising informal open space, landscaping, a play area and surface water attenuation) and a Management Plan for the future management and ongoing maintenance of the Open Space, including funding for that ongoing maintenance and a mechanism for periodic review of the Management Plan. The open space is to be transferred to a Management Company which is required to keep the Open Space in good and safe order. The arrangement is necessary to ensure that the required open space is provided and thereafter maintained in order to provide a necessary amenity for future occupiers of the development and in the interest of visual amenity and meets the relevant tests.

Benefits of the Development Proposed

89. Although various considerations were promoted as benefits of the appeal scheme²¹, it was agreed in answer to my questions that a number are, in fact, measures of mitigation as opposed to benefits. These include the education contribution, travel plan measures, and the delivery of a sustainable drainage scheme on the site. It was also agreed that, were I to come to the view that the development would not result in significant harm to the landscape, this was not a benefit but an absence of harm. I am not persuaded either, that the intention to deliver a high quality development is a benefit. All development is required to be of high quality. Again, that seems to me to be an absence of harm.
90. Guidance set out at paragraph 19 of the Framework advises that significant weight should be placed on the need to support economic growth through the planning system. As set out in the report on the Socio-Economic Impact of New Housing Development (October 2014) which accompanied the planning application, the total construction costs associated with the proposed development are estimated as being in the region of £33.0m which would support an average of 102 full time equivalent construction related jobs over a six year build period. In addition, future occupiers would generate additional spend in the local area, estimated to be in the region of more than £2.0m in Ledbury, more than £3.0m in Herefordshire as a whole. There would also be increased support for around 15 public sector jobs and the Council would benefit from approximately £3.0m in New Homes Bonus over the build period, the provision of affordable housing also attracting an additional payment. Those economic benefits carry significant positive weight.
91. The provision of up to 193 market dwellings with direct access on to an A class road, adjacent to a town that is a main focus for proportionate housing development, at a time when the Council cannot demonstrate a five year supply of housing land, is a significant benefit. Indeed, the Council accepts

²¹ Paragraph 14.18 of the proof of Mr Hourigan

that this is a potentially deliverable site²² in a sustainable location which would help support economic growth.

92. In providing 40% (up to 128) of the homes on the appeal site as affordable dwellings, the scheme would be compliant with Core Strategy H1. In considering whether this can be weighed as a benefit of the scheme, I am aware that the scale of the identified affordable housing need in both Ledbury, and the county as a whole, as identified in the evidence base for the Core Strategy, substantially exceeds the likely capacity of planned development to deliver those homes. Indeed, the undisputed evidence of the appellant shows that completions data relating to affordable homes is falling significantly below both the front loaded five year requirement, and an annualised 20 year requirement. Even if all the housing sites coming forward to meet the Council's overall identified requirement made a policy compliant affordable housing contribution, the identified affordable housing needs of the county would not be met. I am in no doubt in this regard, that the provision of affordable housing as part of the appeal scheme, would leave the community better off in this regard and thus is a major benefit of the scheme.
93. The development would provide some 2.74 hectares²³ of public open space, including a play area. Whilst intended as a necessary facility for future residents of the scheme, existing Ledbury residents would, in theory, also be able to use that space. I am not persuaded however, that this is a consideration that should attract any more than very limited weight, given that there is already an area of open space and a play area for existing residents nearby on Martins Way.
94. SoCG1 sets out agreement that the development proposed is acceptable in arboricultural terms. It is also agreed that the site is of low biodiversity interest and that, were the recommendations of the appellant's ecological assessment²⁴ adhered to (a matter that could be secured by condition) there would be a net gain to biodiversity which would be a benefit of the scheme.
95. The unilateral undertaking includes a contribution towards enhanced football and rugby playing pitch provision. I recognise that there may be some benefit for existing residents in terms of access to that improved/increased provision. However, it is required as mitigation as a consequence of increased demand on existing facilities that are already under pressure, which limits the weight I afford it as an overall benefit of the scheme.
96. Whilst the proposed highway improvement works set out above are intended to encourage the use of means other than the private car to access facilities by future residents, they would also benefit existing residents.

Overall Planning Balance

97. I have found that the Council cannot demonstrate a five year supply of housing land. In those circumstances, policies for the supply of housing cannot be considered as up-to-date, with paragraph 14 of the Framework advising that permission should be granted unless any adverse impact of so doing would significantly and demonstrably outweigh the benefits when assessed against

²² The appeal site is identified in the SHLAA suitable, achievable and available, albeit that it anticipates delivery in years 16-20 of the Plan period (2011-2031).

²³ As set out in SoCG1

²⁴ CD1.8

the policies of the Framework as a whole, or where specific policies in the Framework indicate that development should be restricted. What does not follow from paragraph 14 is that the mere presence of a housing shortfall means that housing developments must automatically be allowed. Rather, the development needs to be considered in the context of the presumption in favour of sustainable development, defined by the Framework as encompassing economic, social and environmental dimensions which give rise to corresponding roles for the planning system.

98. In considering those roles, I have found that whilst the development proposed would not detract materially from the qualities of the wider countryside, there would be some localised harm to the character and appearance of the area. The maintenance and protection of the rural landscape fulfils the environmental role of sustainability. By reducing the area of undeveloped countryside around Ledbury, the proposed development would fail to promote that aspect. However, since the site makes little contribution to the visual character of the landscape other than locally, and even then its landscape character type is acknowledged by the Council to be degraded, I consider that the harm to those aims would, in the scheme of things, be minimal.
99. I have set out the benefits that would accrue from the proposal. In total they are substantial and would resonate with the economic, social and environmental dimensions of sustainable development. The combination of those benefits accords with the principal thrusts of the Framework of securing economic growth and boosting significantly the supply of housing, and are sound arguments carrying considerable weight in favour of the proposal.
100. In the overall balance, I consider that the harm I have identified does not significantly and demonstrably outweigh the benefits when assessed against the Framework as a whole. Therefore, the appeal scheme can be considered as sustainable development.

Conclusion

101. I recognise that considerable time and effort went into the preparation of the recently adopted Core Strategy, including significant community involvement, particularly in relation to the need to accommodate new housing development, and that the investment by the community in the plan-making process is a material consideration. I heard from the Town Council in this regard, that they had reluctantly accepted development on the viaduct site on the understanding that no further greenfield land would be required during the Plan period. Indeed, there is strong local feeling about the appeal scheme, as reflected by the objections received at both the planning application and appeal stages, and the eloquent opposition demonstrated at the Inquiry itself. I am very aware in this regard, of the Government's 'localism' agenda. However, even under 'localism', the views of local residents, very important though they are, must be balanced against the requirements of the development plan and other considerations, including the Framework.
102. The starting point for my decision is the development plan. In as much as the appeal site is not located within the strategic directions for growth identified for Ledbury, as set out by policies SS2, SS3 and LB1, there would be conflict with the development plan. However, the current housing land supply situation in the District means that those policies are not to be considered as up-to-date. I am mindful, in this regard that, among other things, policy SS3 prioritises

increasing housing supply where supply falls below the targets set out in the housing trajectory. Whilst the harm to character and appearance that I have identified would also result in conflict with Core Strategy policies SS6, LD1 and LD3, that harm is localised and has to be seen in the context of the need to increase supply at this time. All in all, I am satisfied that the development proposed would not result in material conflict with the vision and spatial strategy for the District when the development plan is considered as a whole. Even had I found to the contrary, I have concluded above that the scheme comprises sustainable development and thus benefits from the presumption of such as set out in the Framework in any event. Therefore, for the reasons set out above, the evidence in this case leads me to conclude, on balance, that the appeal should succeed.

Conditions

103. Possible conditions²⁵ were discussed in detail at the Inquiry in the light of related advice in the Framework and the planning guidance. The conditions and wording used set out in the attached schedule reflect that discussion.
104. In addition to the standard conditions relating to the submission of reserved matters (1, 2, 3) details of phasing are required in order to ensure that key aspects of the scheme are delivered at an appropriate stage of development (4). Whilst all matters other than access are reserved for further approval, it is necessary for the outline permission to define the maximum capacity of development (5).
105. In the interests of visual amenity, biodiversity and the protection of wildlife conditions are necessary to secure the submission of a Habitat Enhancement Plan and an Arboricultural Method Statement, to control the timing of works of site clearance, and setting out details to be included in the landscaping reserved matters (6, 7, 8, 9).
106. A condition relating to external lighting is necessary in the interest of visual amenity and to mitigate disturbance to wildlife (10).
107. Given the undulating topography of the site, details of finished floor levels are necessary in the interest of visual amenity (11).
108. The Core strategy recognises the value of home working. To support that, it was agreed that a condition was justified to secure the installation of infrastructure that will meet modern communication and technology needs as part of the coordinated approach to infrastructure provision envisaged by policy ID1 of the Core Strategy (12).
109. In order to protect the living conditions of existing residents during the construction period, and in the interest of highway safety, a Construction Management Plan is required for the duration of works (13).
110. As referred to above, on-site provision of affordable housing is proposed to be secured by condition rather than through the planning obligation. The planning guidance advises that a negatively worded condition limiting the development that can take place until a planning obligation or other agreement is in place is unlikely to be appropriate in the majority of cases. However, it goes on to add

²⁵ The Council's suggested conditions are attached to SoCG1. Additional conditions arising from the evidence at the Inquiry were also discussed.

that they may be appropriate in relation to more complex and strategically important development. As set out earlier, the Council confirms that phasing arrangements are likely to be complex, particularly given the scale of the development proposed and the likely involvement of more than one developer. I also consider that the scale of development proposed could be considered as strategic in the terms of the Council's current housing land supply position and the number of homes expected to be provided in Ledbury. I find no inherent conflict with the advice in the planning guidance in this regard and am satisfied that the condition suggested is necessary to secure delivery of a major benefit of the scheme (14).

111. In the interest of highway safety, conditions are required to prevent development until a 40 mph speed restriction has been introduced on this stretch of Leadon Way and to ensure that the proposed roundabout junction is provided (15, 16). In order to promote walking and cycling as more sustainable travel choices the pedestrian and cycleway improvements shown on the submitted plans will need to be secured (17). It is necessary to ensure that the estate roads and associated drainage infrastructure are provided (18). Off-road car parking is required for each dwelling in the interest of highway safety, together with cycle parking/storage in order to encourage sustainable travel (19). Whilst an Interim Travel Plan was submitted with the planning application²⁶, a full Travel Plan is required in order to promote more sustainable travel choices in accordance with national guidance and development plan policies (20).
112. As referred to earlier, a scheme of noise attenuation is necessary to ensure acceptable living conditions for future occupiers (21).
113. In order to avoid pollution and to prevent increased risk from flooding, details of a sustainable surface water drainage scheme are required, together with details for ongoing management which are essential to ensure that the scheme continues to perform as intended (22).
114. The appellant's desk-based archaeological assessment identifies a low to moderate potential for prehistoric and/or Roman material on the site, although any features that survive are likely to be only of local significance and so would not preclude development of the site. A condition securing an archaeological watching brief would therefore be appropriate in this instance (23)

Jennifer A Vyse

INSPECTOR

²⁶ CD1.7

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr G Walters	Instructed by M Jones of the Council's Legal Department
He called	
Ms S Riddle	Senior Planning Officer with the Council
BA(Hons), MSc, MRTPI	
Ms J Wheatley	Service Manager with the Council
BA(Hons), MLA	
Mr A Banks	Principal Planning Officer with the Council
BSc, DipTP, MRTPI	

FOR THE APPELLANT:

Mr M Carter	Instructed by Helen Ball MRTPI, Gladman Developments Limited
He called	
Mr B Wright	Director of Aspect Landscape Planning Limited
BA(Hons), DipLA, CMLI	
Mr R Lomas	Associate with Hourigan Connolly
BSc(Hons), DipTP, MRTPI	
Mr G Venning	Associate Director at Levvel Limited
MA	
Mr B Jackson	Director with Ashley Helme Associates Limited
BEng(Hons), MSc, CIHT	
Mr M Hourigan	Director with Hourigan Connolly
BA(Hons), BPL, MRTPI	
Mr J Powell*	Operations Director with EPDS Consultants Limited
LLB(Hons)	

*Mr Powell submitted a written proof of evidence dealing with the education contribution requested by the Council. However, by the time of the Inquiry, the contribution was agreed between the parties and Mr Powell was not called to give evidence. His proof was taken as read and was not subject to cross-examination.

INTERESTED PERSONS:

Councillor Harvey	
Councillor Holton	
Councillor Page	
Councillor MacNess	
Councillor Warmington	
Mr Thomas	Local resident
Mr P Taylor CEng	Local resident
Mr A H Peake	Retired architect, Member of Ledbury District Civic Society and local resident
MA(Cantab) DipArch, RIBA	
Mr N Rawlings	Bloor Homes
BA(Hons) MA MRTPI	
Mr A Warmington	Local resident
Mr M Wade	Council officer and local resident
Mr Holland	Local resident

DOCUMENTS HANDED UP DURING THE INQUIRY

Doc 1	Appearances for the appellant
Doc 2	Opening statement for the appellant
Doc 3	Appearances for the Council
Doc 4	Copy of the Site Notice relating to the appeal and the Inquiry, photos of the Notices in situ and a location plan showing where the notices were posted
Doc 5	Appendix 3 to the Core Strategy
Doc 6	Appendix 5 to the Core Strategy
Doc 7	Council's CIL Compliance Statement 3 February 2016 (superseded by Doc 13)
Doc 8	Final draft S106
Doc 9	Council's update on five year housing land supply (aka Core Document 12.16)
Doc 10	Council's updated housing completions (aka Core Document 12.17)
Doc 11	Site visit itinerary and maps
Doc 12	Signed S106
Doc 13	Council's CIL Compliance Statement 15 February 2016
Doc 14	Closing Submissions for the Council
Doc 15	Closing Submissions for the appellant including court judgements

CORE DOCUMENTS

FOLDER 1

CD1 Application Documents

0.1	Application Covering Letter, Application Form and Certificates
1.1	Topographical Survey
1.2	Location Plan
1.3	Development Framework Plan
1.4	Design and Access Statement
1.5	Landscape and Visual Impact Appraisal
1.6	Transport Assessment
1.7	Interim Travel Plan
1.8	Ecological Appraisal Survey Report
1.9	Arboricultural Assessment
1.10	Phase 1 (Desk Study) Investigation Report
1.11	Flood Risk Assessment

FOLDER 2

1.12	Air Quality Assessment
1.13	Noise Assessment
1.14	Archaeological Report
1.15	Heritage Statement
1.16	Statement of Community Involvement
1.17	Affordable Housing Report
1.18	Planning Statement
1.19	Foul Drainage Analysis
1.20	Socio-Economic Impacts

CD2 Additional & amended Reports submitted after validation

2.1	Pedestrian and Cycle Improvement Scheme (original)
2.2	Indicative Roundabout Junction Plan
2.3	Pedestrian and Cycle Improvement Scheme (reduced scale)
2.4	Visibility to Change in Speed Limit
2.5	Indicative Roundabout Junction Plan (reduced scale)
2.6	Pedestrian and Cycle Improvement Scheme (Revision A)
2.7	TA - Table 1 Revised 85th percentile Wet Weather Speeds ATC 1
2.8	TA - Revised 85th percentile Wet Weather Speeds ATC 1
2.9	TA - ATC 1 Figure 3
2.10	Adopted Highways Plan - Herefordshire Council

FOLDER 3

CD3	Correspondence with Local Planning Authority	Page Nos
3.01	8 July'14 - (email & letter) EIA Screening Opinion request (GDL)	1-8
3.02	22 July'14 - (letter) Pre-app response (HC)	9-10
3.03	5 August'14 - (email) Reminder for EIA Screening Opinion reply and Pre-app date to be sent to GDL (GDL)	11-12
3.04	21 August'14 - (email chain) Comments from Highways Officer	13-18
3.05	9 September'14 - (email chain) GDL Transport Consultant comments re: 476 bus service	19-22
3.06	11 August'14 - (email) Reminder for EIA Screening Opinion reply and Pre-app date to be sent to GDL (GDL)	23-24
3.07	15 September'14 (email) Comments from Snr Landscape Officer	25-38
3.08	15 September'14 (email) GDL requesting Pre-advice meeting notes	39-40
3.09	16 September'14 (email) Comments between Snr Landscape Officer & Landscape Consultants	41-42
3.10	17 September'14 (email) Comments from BBLP re: Drainage/culvert	43-44
3.11	24 September'14 (email) Request from GDL re: outstanding EIA Screening Opinion and Pre-Application Consultation	45-46
3.12	25 September'14 (email) HC response with EIA Screening Response and Pre-App Advice.	47-58
3.13	26 September'14 (email chain) Ashley Helme request for comments from Transportation Officer	59-62
3.14	29 September'14 (email) BBLP's response to Drainage query from Hydrock	63-64
3.15	1 October'14 (email) Transportation response confirming feasible to extend 476 bus service	65-66
3.16	15 October'14 (letter) HC's validation and receipt of planning application with determination date.	67-70
3.17	22 October'14 (email chain) GDL's reply to Case Officer's query re: proposed footpath to perimeter of adjacent land parcel	71-72
3.18	17 November'14 - (email chain) AHA comments to Highways Officer re: ATC	73-78
3.19	18 November'14 -(email chain) Transportation response confirming feasible to extend 476 bus service	79
3.20	19 November'14 - (email chain) Response from Commissioning Officer (Housing)	81-84
3.21	20 November'14 - (email chain) AHA's update on 132 and 476 bus service to HC Transportation dept.	85-86
3.22	25 November'14 (letter) GDL's reply to Consultee replies to Application	87-92
3.23	09 December'14 (Email chain) Bus Service and connectivity options and comments between AHA and HC	93-96
3.24	11 December'14 (letter) GDL summary to HC's Planning Case Officer re: Highways, Affordable Housing & Contributions	97-100
3.25	11 December'14 (letter) HC Highways officers comments	101-102
3.26	05 January'15 (email chain & plans) AHA request to HC Highways Officer for information to comply with HC Highways officer request.	103-122
3.27	12 January'15-(email & plans-refer to CD2.1-2.10) AHA's (GDL) submission of Highways option as discussed with HC Highways Officer	123-130
3.28	14 Janaury'15 - (email) Email to Planning Case Officer chasing response on Application	131-132
3.29	15 Janaury'15 (email) Request to Development Manager at HC following lack of reply from HC Planning Case Officer	133-134
3.3	16 Janaury'15 (email) AHA's latest speed survey results to HC Highways Officer	135-140
3.31	19 January'15 (email) GDL making repeat request to Case Officer to provide update on Application following no response	141-142

3.32	26 January'15 (email) Request to Development Manager at HC following lack of reply from HC Planning Case Officer	143-144
3.33	3 February'15 (letter) Letter from Levvel (GDL) re: Affordable Housing sent to Commissioning Officer	145-148
3.34	3 February'15 (email chain) Response from HC's Head of Development regarding previous requests by GDL for application update	149-150
3.35	9 February'15 - (email) AHA's request for update regarding public transport requirements	151-152
3.36	10 February'15 (email) GDL making repeat request to Case Officer to provide update on Application following no response	153-154
3.37	10 February'15 (email) AHA requesting update on Public Transport/difficult contacting with Transport Officer of HC & request of Highways Officer is content with GDL revised proposals	155-156
3.38	10 February'15 (email) AHA requesting Highways Officer to discuss with Transportation	157-158
3.39	11 February'15 (email) Levvel reply to Commissioning Officer's comments (Affordable Housing)	159-160
3.40	16 February'15 (email) GDL comments summarising meeting between GDL & HC's Planning Case Officer	161-162
3.41	25 February'15 (email) Commissioning Officer Response to Levvel (Affordable Housing)	163-164
3.42	3 March'15 (email) GDL chasing HC Case Officer for update on application	165-166
3.43	3 March'15 (email) AHA chasing Highways Officer for update with Transportation Officer	167-168
3.44	5 March'15 (email) GDL chasing HC Case Officer for update on application	169-170

CD4 Consultation Responses

4.1	Consultation Response from PRow Officer.	1-2
4.2	Consultation Response from Environment Agency.	3-4
4.3	Consultation Response from CPRE.	5-6
4.4	Consultation Response from Archaeological Officer.	7-8
4.5	Consultation Response from Education Officer.	9-10
4.6	Consultation Response from Severn Trent Water.	11-12
4.7	Consultation Response from Commissioning Officer (Development).	13-14
4.8	Consultation Response from Ledbury Town Council.	15-18
4.9	Consultation Response from Ledbury and District Civic Society.	19-20
4.10	Consultation Response from Ledbury Area Cycle Forum.	21-22
4.11	Consultation Response from Leisure and Countryside Recreation Officer.	23-26
4.12	Consultation Response from Land Drainage Officer.	27-30
4.13	Consultation Response from Welsh Water.	31-32
4.14	Consultation Response from Ecological Officer.	33-34
4.15	Consultation Response from Transportation Officer.	35-36
4.16	Consultation Response from Building Conservation Officer.	37-38

FOLDER 4

CD5

5.1	Delegated Decision Report	1-20
5.2	Delegated Decision Notice	21-24

CD6 Relevant Correspondence – Post Appeal

6.1	23 March 2015 - Herefordshire Council - Landscape Officer comments (reason for refusal)
6.2	25 March 2015 - Email correspondence with Herefordshire Case Officer re: no

- record of Refusal Notice dated 20th March 2015
- 6.3 10 April-20 August 2015 - Email chain -Education dialogue between GDL and Education Officer
- 6.4 28 May 2015 - Email from PINs re: Reason for appeal in light of HC's claim of issuance of refusal notice on 20th March 2015.
- 6.5 19 August - 05 October 2015 - Gladman requests for CIL details from HC
- 6.6 12 October 2015 - Hourigan Connolly letter to HC (Planning Policy, Housing Land, S106 and SoCG)
- 6.7 30 October 2015 - Ashley Helme issued -Bus Service Extension Timetable (Oct 2015) and Figure 1394 BDJ 5.
- 6.8 20 October 2015 -PINs letter to Herefordshire Council Re: New Local Plan Adoption
- 6.9 22 October 2015 - Herefordshire Council Reply to PINs re: Adopted Plan
- 6.10 12 Nov 2015 - Email Hourigan Connolly (GDL) to HC Head of Development
- 6.11 17 Nov 2015 - Email Hourigan Connolly (GDL) to HC Case Officer re: Final draft SoCG and Planning Conditions
- 6.12 21 Dec 2015 - Email (chain) to Case Officer (Herefordshire Council) re: draft conditions
- 6.13 6 January 2016 - Email (chain) Reminder re: Request for Net Capacity Assessment from Herefordshire Education Authority
- 6.14 11 January 2016 - Letter to Herefordshire Council re: change of Housing Land Supply notification in response to CD12.12
- 6.15 Technical Response from GDL to Herefordshire (Noise)
- 6.16 Response to Landscape Officer's comments (GDL to Herefordshire Council)

CD7 The Development Plan

- 7.1 Extracts of the Herefordshire Local Plan Core Strategy
- 7.2 Extract of Local Plan Inspector's Report

CD8 Modifications to Local Plan Core Strategy

- 8.1 Herefordshire Local Plan Core Strategy - Main Modifications (September 2015)

CD9 Evidence Base for the Development Plan

- 9.1 Extracts from the SHLAA 2011- Ledbury Sites
- 9.2 Landscape Character Assessment (2004)
- 9.3 PINs - Report to Herefordshire Council, Christine Thorby, 29 September 2015
- 9.4 Herefordshire Council 5 Year Housing Land Supply Update - March 2015
- 9.5 Ledbury SHLAA Map
- 9.6 Ledbury Visual Analysis (SHLAA)

FOLDER 5

CD10 Relevant Appeal Decisions

- CD10.1 Land at Chester Road and Well Street, Malpas, Cheshire. APP/A0665/A/13/2193956
- CD10.2 Land At Knightley Road, Gnosall, Cheshire. APP/Y3425/A/14/2210911
- CD10.3 Land to the West of Padgbury Lane, Congleton, Cheshire. APP/R0660/A/14/22224 & APP/R0660/A/14/22225
- CD10.4 Land off Field End, Witchford, Cambridgeshire. APP/V0510/A/14/2224671
- CD10.5 Land Adjacent and to rear of 13 Holly Tree Drive, Nether Peover, Cheshire. APP/A0665/A/14/2224763
- CD10.6 Land at Well Meadow, Malpas, Cheshire. APP/A0665/A/14/2214400
- CD10.7 Land between Leasowes Road and Laurels Road, Offenham, Worcestershire. APP/H1840/A/13/2203924
- CD10.8 Land to the west of Cody Road, Waterbeach. APP/W0530/A/13/2207961
- CD10.9 Land north of Gaveston Gardens and Rear of Manor Farm, Banbury Road, Deddington, Oxfordshire. APP/C3105/A/13/2201339
- CD10.10 Land off Station Road, Bourton-on-the-Water, Gloucestershire. APP/F1610/A/13/2196383

- CD10.11 Land between Station Road and Dudley Road, Honeybourne, Worcestershire. APP/H1840/A/12/2171339
- CD10.12 Land to the west of Station Road, Long Buckby, Northamptonshire. APP/Y2810/A/12/2174386
- CD10.13 Land south of Moira Road, Ashby-de-la-Zouch. APP/G2435/A/13/2192131
- CD10.14 Land at Pulley Lane, Droitwich, Wychavon. APP/H1840/A/13/2199085 & APP/H1840/A/13/2199426
- CD10.15 Land to the east of Station Road, Langford, Bedfordshire. APP/P0240/A/14/2228154
- CD10.16 Land at Highfield Farm, Tetbury, Gloucestershire. APP/F1610/A/11/2165778
- CD10.17 Land north of Upper Chapel, Launceston. APP/D0840/A/13/2209757
- CD10.18 Land at Fountain Lane, Davenham, Cheshire. APP/A0665/A/14/2226994
- CD10.19 Land at Hill Top Farm, By-Pass Road, Northwich, Cheshire. APP/A0665/W/14/3000528
- CD10.20 Land to the east of Broad Marston Road, Mickleton, Gloucestershire. APP/F1610/A/14/2228762
- CD10.21 Salisbury Landscapes Ltd, Boughton Road, Moulton, Northampton. APP/Y2810/A/14/2225722
- CD10.22 Land bounded by Ash Road, Chester Road and Forest Road, Cuddington, Northwich, Cheshire. APP/A0665/A/11/2159006
- CD10.23 Land south of Milton Road, Bloxham, Oxfordshire. APP/C3105/A/12/2189191
- CD10.24 At Little Tarnbrick Farm, Blackpool Road, Kirkham, Preston. APP/M2325/A/13/2192188 & APP/M2325/A/13/2196027
- CD10.25 Land south of Cirencester Road, Fairford. APP/F1610/A/14/2213318
- CD10.26 Chester Road and Well Street, Malpas, Cheshire. APP/A0665/A/13/2193956
- CD10.27 Land west of Audlem Road, Audlem, Cheshire. APP/R0660/A/13/2204723
- CD10.28 Land off Boroughbridge Road, Knaresborough. APP/E2734/A/13/2207338
- CD10.29 Land at Spring Lane, Radford Semele, Leamington Spa APP/T3725/A/14/2221858

FOLDER 6

CD11 Relevant Judgements

- CD11.1 St Albans City and District Council v Hunston Properties Limited and Secretary of State for Communities and Local Government [2013] EWCA Civ 1610
- CD11.2 Hunston Properties Limited v SoS for Communities and Local Government and St Albans City and District Council EWHC 2678 (Admin)
- CD11.3 South Northamptonshire Council and the Secretary of State for Communities and Local Government and Barwood Homes Limited Neutral Citation Number [2014] EWHC 570
- CD11.4 South Northamptonshire Council and the Secretary of State for Communities and Local Government and Barwood Land and Estates Limited Neutral Citation Number [2014] EWHC 573
- CD11.5 Gallagher Homes Limited and (2) Lioncourt Homes Limited v Solihull Metropolitan Borough Council [2014] EWHC 1283
- CD11.6 Solihull Metropolitan Borough Council v Gallagher Homes and Lioncourt Homes; Ref: [2014] EWCA Civ 1610 (17 December 2014)
- CD11.7 Neutral Citation Number: [2013] EWHC 597 (Admin) Case Number: CO/12207/2012
- CD11.8 Secretary of State for Communities and Local Government and Harborough District Council v Ivan Crane (Neutral Citation Number: [2015] EWHC 425 (Admin))
- CD11.9 Secretary of State for Communities and Local Government and Shepway District Council and Plumstead v Phides Estates (Overseas) Ltd (Neutral Citation Number: [2015] EWHC 827 (Admin))
- CD11.10 Wainhomes (South West) v Secretary of State for Communities and Local Government and Wiltshire Council [2013] EWHC 597

FOLDER 7

CD12 Other

- 12.1 Ledbury Town Plan
- 12.2 Ledbury Town Council's Response re Matter 7
- 12.3 GLVIA 3rd Edition (2013)
- 12.4 Extract from the Core Strategy re infrastructure contributions
- 12.5 Urban Fringe Sensitivity Assessment - Ledbury Extract (2010)
- 12.6 Herefordshire Planning Obligations- April 2008
- 12.7 Herefordshire Green Infrastructure Strategy - LDF February 2010
- 12.8 Malvern Hills AONB Management Plan 2014-2019
- 12.9 Herefordshire Council Updated Economic Viability Assessment -February 2013
- 12.10 Planning Approval - 100 Dwellings, rear of Full Pitcher, Ledbury
- 12.11 Planning Approval - Sports Facility, Ross Road, Ledbury
- 12.12 Herefordshire Council – Updated 5YHLS at April 2015 (January 2016)
- 12.13 Contested sites: Herefordshire Council and Hourigan Connolly Joint Document
- 12.14 Barons Cross, Leominster: additional information from the Council
- 12.15 Former Whitecross High School Tender document (Savills)
- 12.16 Council's update on five year housing land supply (aka Hearing Doc 9)
- 12.17 Council's updated housing completions (aka Hearing Doc 10)

**Schedule of Conditions attached to Appeal APP/W1850/W/15/3009456
Land south of Leadon Way, Ledbury, Herefordshire**

Reserved Matters

- 1) Details of the appearance, landscaping, layout and scale (hereinafter called 'the reserved matters') relating to each phase of development shall be submitted to and approved in writing by the local planning authority before any development begins in respect of that phase. Development shall be carried out in accordance with the approved details.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.

Phasing

- 4) Development shall not begin, including works of site clearance, until a phasing programme for the whole of the development site, and for implementation of the highway works referred to in condition 15 below, has been submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in full accordance with the approved phasing programme.

Development Parameters

- 5) No more than 321 dwellings shall be constructed on the site.

Ecology/Trees/Landscaping

- 6) Development, including works of site clearance, shall not begin until a Habitat Enhancement Plan, including a timetable for implementation, based on the recommendations set out at Section 4 of the Ecological Appraisal (October 2014) submitted with the planning application and integrated with the landscaping scheme to be submitted pursuant to condition 1 above, has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved Habitat Enhancement Plan.
- 7) Prior to the commencement of development in any phase, including any works of site clearance or ground preparation, an Arboricultural Method Statement specifying the measures to be put in place during the construction period, for the protection of those trees and hedgerows to be retained, shall be submitted to and approved in writing by the local planning authority. The Method Statement shall be prepared in accordance with the principles set out in BS 5837:2012 – *Trees in relation to design, demolition and construction: Recommendations*. Development shall be carried out in accordance with approved Method Statement.
- 8) No development in any phase, including any works of site clearance, shall commence during the bird nesting season (1 March – 31 August inclusive) unless it has been demonstrated through the submission of a method statement that shall previously have been submitted to and approved in writing by the local planning authority, that nesting birds can be adequately protected. Development shall be carried out only in accordance with the approved details which may include, but are not confined to, the timing of work, pre-work checks, avoidance of nesting areas, and protection zones around nesting areas.
- 9) The landscaping details to be submitted pursuant to condition 1 above shall include, but are not confined to, the following:
 - i) plans at a scale of 1:200 or 1:500 showing the layout of proposed tree, hedge and shrub planting and grass areas;

- ii) a written specification clearly describing the species, sizes, densities and planting numbers and giving details of cultivation and other operations associated with plant and grass establishment;
- iii) proposed finished levels and contours;
- iv) the position, design and materials of all site enclosure and boundary treatments between and around dwellings, around the boundaries of the site as a whole and around areas of open space;
- v) hard surfacing materials;
- vi) minor structures (eg play equipment, street furniture, refuse storage areas, signage etc);
- vii) a timetable for implementation;
- viii) a scheme for the ongoing management and maintenance of all landscaped areas other than private domestic gardens and open space covered by the planning obligation, including long term design objectives, management responsibilities and maintenance schedules.

External Lighting

- 10) Prior to commencement of development in any phase, excluding works of ground clearance/site preparation, details of a wildlife sensitive lighting scheme for roads and footpaths within the site, and any lighting for the areas of public open space, shall be submitted to and approved in writing by the local planning authority. Development shall be carried out only in accordance with the approved details.

Levels

- 11) Prior to commencement of development, including works of site clearance, details of the proposed slab levels of the dwellings hereby approved in relation to a datum point outside the development site, shall be submitted to and approved by the local planning authority. Development shall be carried out in accordance with the approved details.

Communications and Technology

- 12) No dwelling in any phase shall be occupied until arrangements to facilitate broadband and/or high speed internet connection to those dwellings have been implemented in accordance with details that shall previously have been submitted to and approved in writing by the local planning authority.

Construction

- 13) No phase of development shall commence until a Construction Management Plan that phase has been submitted to and approved in writing by the local planning authority. The approved Construction Management Plan shall thereafter be adhered to throughout the construction period for that phase. The Construction Management Plan shall include, but is not limited to, the following matters:
 - site management arrangements, including on-site storage of materials, plant and machinery; temporary offices, contractors compounds and other facilities; on-site parking and turning provision for site operatives, visitors and construction vehicles; and provision for the loading/unloading of plant and materials within the site;
 - a detailed construction waste management plan that identifies the main waste materials expected to be generated by the development during construction, together with measures for dealing with such materials so as to minimise waste and to maximise re-use, recycling and recovery;

- wheel washing facilities and other measures to ensure that any vehicle, plant or equipment leaving the application site does not carry mud or deposit other materials onto the public highway;
- measures for managing access and routing for construction and delivery traffic;
- hours during which construction work, including works of site clearance, and deliveries can take place.

Affordable Housing

- 14) The development hereby permitted shall not begin (with the exception of works of site clearance) until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in the Glossary at Annex 2 of the National Planning Policy Framework or any future guidance that may replace it. The scheme shall include:
- (i) the numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of not less than 40% of housing units/bed spaces;
 - (ii) the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
 - (iii) the arrangements for the transfer of the affordable housing to an affordable housing provider;
 - (iv) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
 - (v) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

The affordable housing shall be retained thereafter in accordance with the approved scheme.

Highways/Parking/Travel Plan

- 15) No dwelling shall be occupied unless and until the roundabout access shown on Plan No 1394/10 has been constructed, surfaced and drained in accordance with details that shall previously have been submitted to and approved in writing by the local planning authority.
- 16) No dwelling on any phase of the development hereby permitted shall be occupied unless and until a 40 mph speed limit on that stretch of Leadon Way between the Full Pitcher roundabout and a point to be agreed with the local planning authority to the east of the proposed roundabout has been introduced.
- 17) No dwelling on any phase of the development hereby permitted shall be occupied unless and until the pedestrian/cycle improvements shown on Plan No 1394/11 have been completed in accordance with the approved details.
- 18) No development in relation to the provision of roads and drainage infrastructure within any phase shall take place until details of the engineering and specification of the roads and highway drains within that phase have been submitted to and approved in writing by the local planning authority. No dwelling within any phase shall be occupied until the roads and drainage infrastructure for that phase has been carried out in full accordance with the approved details.
- 19) No dwelling in any phase shall be occupied unless and until related provision for off-road car and cycle parking/storage has been provided in accordance with details that shall previously have been submitted to and approved in writing by

the local planning authority. Once provided, such facilities shall be retained thereafter for their intended use.

- 20) No dwelling shall be occupied until a Travel Plan, based on the Framework Travel Plan (Ref:1394/3/A dated September 2014) submitted with the planning application, has been submitted to and approved in writing by the local planning authority. The Travel Plan shall include arrangements for the provision of a travel plan coordinator appointed by the developer for a period to be agreed, a timetable for its implementation, provisions for ongoing monitoring and review and an enforcement mechanism for failure to meet travel plan targets. The approved Travel Plan shall be implemented as approved.

Noise

- 21) Prior to commencement of development in any phase, excluding works of site clearance, a scheme of noise mitigation for outdoor living areas, bedrooms and living rooms for dwellings within that phase shall be submitted to and approved in writing by the local planning authority. The scheme to be submitted shall take account of the findings and recommendations set out in the Wardell Armstrong Noise Assessment Report dated October 2014, submitted with the planning application, and shall include details of proposed ameliorative measures to mitigate against noise from operations within the nearby industrial estate on Dymock Road (B4126), including the cheese factory, and road traffic noise from Leadon Way and Dymock Road, including the new roundabout, taking account of relevant best practice guidance. All works which form part of the approved scheme shall be completed in accordance with the approved details prior to first occupation of any dwelling in that phase and such measures shall be retained thereafter.

Sustainable Drainage

- 22) No development shall take place in any phase, including works of site clearance, until details of a sustainable surface water drainage scheme, based on the surface water drainage strategy set out in the Flood Risk Assessment and Surface Water Drainage Strategy dated October 2014 and the accompanying Drainage Strategy layout (Plan No 101 at Appendix E of the same) submitted with the planning application, has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details and timetable. The scheme to be submitted shall:
- i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - ii) include a timetable for implementation of the scheme in relation to each phase of the development; and,
 - iii) provide a management and maintenance plan for the scheme, for the lifetime of the development, which shall include the arrangements for adoption of the scheme by any public authority or statutory undertaker, and any other arrangements to secure the operation of the scheme throughout its lifetime.

Archaeology

- 23) No development, including works of ground clearance and site preparation, shall take place until a detailed scheme for an archaeological watching brief has been submitted to and approved in writing by the local planning authority. The scheme shall provide for the monitoring of all groundworks and excavations, and the recording of all archaeological observations. The archaeological watching

brief scheme shall thereafter be implemented in accordance with the approved details.

-----END OF SCHEDULE-----