
Appeal Decision

Inquiry held on 21 & 22 January 2014

Site visit made on 21 January 2014

by Clive Kirkbride BA(Hons) DipTP MSc

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

Decision date: 17 February 2014

Appeal Ref: APP/Q1825/A/13/2205688

Land off Church Road, Webheath, Redditch, B97 5PG

- 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 Barratt West Midlands and Taylor Wimpey UK Ltd against the decision of Redditch Borough Council.
 - The application Ref 2012/207/OUT, dated 25 July 2012, was refused by notice dated 22 May 2013.
 - The development proposed is outline application with means of access from Church Road and emergency access from Pumphouse Lane to be determined, (layout, scale, appearance and landscaping reserved for subsequent approval) for the erection of up to 200 dwellings (Class C3); site of up to 1,000 square metres, including building of up to 400 square metres, for retail (Use Class A1) and/or community use (Use Class D1); demolition of existing buildings and site remediation; public open space; earthworks; balancing pond; structural landscaping; car parking, and other ancillary works.
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Decision

1. The appeal is allowed and planning permission is granted for outline application with means of access from Church Road and emergency access from Pumphouse Lane to be determined, (layout, scale, appearance and landscaping reserved for subsequent approval) for the erection of up to 200 dwellings (Class C3); site of up to 1,000 square metres, including building of up to 400 square metres for community use (Use Class D1); demolition of existing buildings and site remediation; public open space; earthworks; balancing pond; structural landscaping; car parking, and other ancillary works on land off Church Road, Webheath, Redditch, B97 5PG in accordance with the terms of the application, Ref 2012/207/OUT, dated 25 July 2012, and the plans submitted with it, subject to the conditions set out in the attached Schedule.

Procedural matters

2. The appellants clarified that their proposal no longer included provision for retail use, only community use. I consider this to be a non-material amendment and have determined the appeal on this basis.
3. After submission of its Rule 6 statement of case, but well in advance of the date the inquiry was due to open, the Council confirmed that it would not be providing any defence at the inquiry in relation to the proposal's infrastructure and traffic impacts as it had no technical evidence to substantiate those matters. The County Council, acting in its capacity as the Highway Authority (CHA), subsequently confirmed that agreement had been reached with the

appellants over the requested transport infrastructure contribution and that it, too, would no longer be involved with the appeal. Consequently neither the Council nor County Council was officially represented at the inquiry and officers were not called to give evidence.

4. However, a Rule 6(6) party, the Webheath Action Group (WAG), indicated that it still wished to produce evidence relating to transport matters, including sustainability considerations, and the significance of the appeal site being designated as part of an Area of Development Restraint (ADR) under the adopted local plan. The inquiry proceeded on this basis.
5. The appellants have entered into a s106 Agreement with the Council and the CHA regarding the proposal's off-site impacts, including on the wider highway network infrastructure, a signed and dated copy of which was tabled during the inquiry (*Document 2*). The Agreement addresses the third and final element of the Council's single reason for refusal and I have taken it into account when arriving at my decision.

Main issues

6. Having regard to the above matters, I consider the main issue is whether the proposed development would amount to a sustainable form of development, having regard to the following matters:
 - (i) Consideration of the appeal site's ADR designation;
 - (ii) The impact of traffic generated by the proposal on local roads; and
 - (iii) Accessibility to a range of local services and facilities.

Background

7. The appeal site is an area of land about 11.5ha in extent situated on the western edge of Redditch, about 4kms from the town centre. It extends from Church Road, in the east, beyond which lies the established residential area of Webheath, to the administrative boundary with Bromsgrove District to the west, where it adjoins an area of Green Belt. To the north, the site is bounded by Pumphouse Lane beyond which is a modern housing development. The site falls towards its southern boundary which is marked by a watercourse and beyond this fields rise toward the rear of dwellings fronting onto Crumpfields Lane. A public bridleway (PROW) running westwards from Hilltop Lane along a ridge overlooks the appeal site from the south. This then drops down into the valley bottom, crosses the watercourse then follows the south western boundary of the appeal site up to Pumphouse Lane.
8. The site is predominantly agricultural grazing land but includes some farm buildings, a dwelling and a sawmill fronting onto Pumphouse Lane, all of which would be removed, and a disused sewage works sited close to the southern boundary. The site contains a number of hedgerows as well as individual, groups and areas of trees protected by a Tree Preservation Order. Protected trees tend to follow the line of field boundaries or mark the perimeter of the site, including both sides of the watercourse along the southern boundary.
9. The site forms part of the more extensive Webheath ADR which has a long development plan history. I will return to this matter in more detail but, suffice it to say by way of introduction, that the principle of residential development on the appeal site was established as far back as 1991, in the Redditch Deposit Draft Local Plan No.2. The expectation that it would be developed for housing

has been carried forward through the intervening years, firstly by the Borough of Redditch Local Plan No.3 adopted 2006 (LP No.3), the current local plan whose policies are saved by direction of the Secretary of State, through to consultation on the Proposed Submission version of the Council's emerging Core Strategy Local Framework Document, known locally as Local Plan No.4, which ended in November 2013.

10. The Council issued a formal screening opinion on 10 August 2011 to the effect that, although falling within Schedule 2 of The Town and Country Planning (Environmental Impact Assessment) Regulations 1999, it was not considered to be of a sufficient nature and scale, or on a significantly environmentally sensitive site, such that it warranted the support of an Environmental Statement. However, the Council did draw the appellants' attention to the likely need for significant information relating to flood risk and drainage issues.
11. On 5 December 2013, The Planning Inspectorate issued its own screening opinion to the effect that, having taken account of the criteria in Schedule 3 to the 2011 Regulations, the Secretary of State did not consider that proposal would be likely to have a significant effect on the environment by virtue of factors such as its nature, size or location and would not be EIA development. This decision took account of the environmental information and assessments submitted with the outline application and the receiving environment, landscape and existing built development in the locality of the site. These matters are not in dispute.

Relevant planning policy background

12. The most relevant saved LP No.3 policies are those cited in the Council's decision notice, namely Policies CS.6 (implementation and development) and CS.7 (sustainable location of development). Insofar as Policy CS.6 is concerned the Council now considers that its requirements have been met following the preparation and submission of the s106 Agreement.
13. Policy CS.7 takes a sequential approach to all development by directing it, firstly, to locations within the Redditch urban area on previously developed land which avoids damaging the quality of the environment; secondly, to locations within the Redditch urban area on greenfield land which avoids damaging the quality of the environment when assessed against four specific criteria; thirdly, to locations adjacent to the Redditch urban area including those in ADRs and fourthly, when all the other sustainable location options have been exhausted, on Green Belt land adjacent to the Redditch urban area. With respect to ADRs, supporting paragraph 3 goes on to say that it is not envisaged that any ADR land would be needed during the plan period, that is, in the period up to 2011.
14. However, LP No.3 Policy B(RA).3 is also a key policy as it refers specifically to certain lands at the edge of urban Redditch as ADRs. The policy safeguards these to meet longer term development requirements beyond 2011 and indicates that proposals which would, individually or cumulatively, adversely affect the suitability or the capacity of an ADR will be resisted. Supporting paragraph 2 explains that identification of an ADR does not necessarily imply that it will be allocated for development purposes when the Plan is next reviewed or that the whole of each ADR is suitable for development.
15. The advice, guidance and policies of the National Planning Policy Framework (the Framework) are also material considerations. At the heart of the

Framework is a presumption in favour of sustainable development.¹ For plan-making, this means, amongst other matters, that local plans should meet objectively assessed needs unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the Framework's policies as a whole, or specific policies within it indicate development should be restricted. For decision-making, this means, amongst other matters, that where the development plan is absent, silent or relevant policies are out-of-date, granting permission subject to similar caveats.

16. Examples of specific policies which indicate development should be restricted are referred to in Footnote 9 to paragraph 14 and include land subject to international and national designations and locations at risk of flooding. None of the examples given refer to local designations, for example, ADRs or other types of safeguarded land identified in local plans.
17. Paragraph 85 has also been raised by WAG in relation to safeguarded land, including ADRs. This requires that when defining boundaries local planning authorities should make clear that safeguarded land is not allocated for development at the present time and that planning permission for permanent development should only be granted following a Local Plan review which proposes development. However, paragraph 85 has to be read in context which is protecting Green Belt land and defining their boundaries. The appeal site may be safeguarded land but it is not Green Belt land and the provisions of paragraph 85 do not apply to it.
18. In the context of paragraph 14, insofar as this applies to plan-making, the proposed submission version of Local Plan No.4 includes the Webheath ADR as a strategic allocation for 500-600 dwellings. Draft Policy 3 states that all strategic sites can come forward immediately and draft Policy 48 assesses that the first phase of the Webheath ADR delivering 200 dwellings (the appeal site) is expected to come forward within the first five years after adoption of Local Plan No.4. Whilst I can only give limited weight to emerging local plan policies, it is clear that, based on objectively assessed needs, delivery of the appeal scheme is essential to the delivery of the Council's development strategy for the early part of the plan period. I will return to this matter in due course.

Reasons

ADR designation

19. LP No.3 Policy B(RA).3 safeguarded ADRs to meet possible post-2011 development requirements; we are now in the post-2011 period. As there is no reference within the policy to Green Belt or Green Belt boundaries paragraph 85 of the Framework does not come into play.
20. With respect to LP No.3 Policy CS.7(iii), all *other* (my italics) sustainable location options have been exhausted. I draw particular attention to *other* because it is evident that the Council considered that the ADRs were all in sustainable locations. This is clarified in supporting paragraph 3 which states that the three ADRs (the A435 corridor, Brockhill and Webheath) are all "considered to be in locations that would enable balanced communities to be achieved and would minimise the need to travel."

¹ Paragraph 14

21. The assumption that development of the ADRs would be sustainable, in principle, has also been independently tested and confirmed on no less than three previous occasions: At the examination and modification stages of the Local Plan No.2; during the preparation and examination of the current local plan, and by the Panel examining Phase 2 of the now revoked Regional Spatial Strategy.
22. The Council also published its own study of Green Belt Land and ADRs as a Core Strategy Background Document in 2008. This also confirmed the suitability of the Webheath ADR for future development for housing considering that this would be relatively harmonious with existing development in Webheath, could be relatively well-contained and that its selection as an ADR was far more preferable than developing other land elsewhere in the designated Green Belt around Redditch.
23. At the time LP No.3 was adopted different housing targets applied from those now identified by both the Council and the appellants. These are significantly greater than previously envisaged and need to be addressed as a matter of urgency; they cannot wait until such times as the emerging Local Plan No.4 is adopted. On this matter, the draft housing policies in the plan accord with those of the Framework and are of greater weight than continuing to safeguard the appeal site for development at some future date. The Council has also confirmed that it cannot demonstrate a five year supply of housing based on sites meeting LP No.3 Policy CS.7's higher sequential (i) and (ii) tests and that it is reliant upon the appeal site for meeting its objectively assessed housing needs.
24. Therefore, I am satisfied that there is no 'in principle' objection, be it in sustainability or policy terms, to the ADR being considered for development in the manner proposed. Therefore, the proposal would not result in any conflict with LP No.3 Policies CS.7 and B(RA).3. I have had regard to two other reports drawn to the inquiry's attention by WAG, notably the *White Young Green Second Stage Report into the Future Growth Implications of Redditch (2008)* (WYG Report) and the *Halcrow Group Limited Redditch Development Sites – Highway Impact and Accessibility Modelling Report (2011)* (Halcrow Report).
25. The WYG Report, alone, recommended that the ADRs should be added to the Green Belt. Its finding on this matter is contrary to the Council's own 2008 study and all previous recommendations regarding their suitability for development. With respect to the Halcrow Report, its purpose was not to question ADR designation; it was a strategic level assessment aimed at showing whether the future development proposals for the ADRs, amongst other sites, could be brought forward without having a detrimental impact on the highway network, subject to implementation of any strategic improvements identified.
26. I shall now turn to the main concerns raised by WAG and local residents about the site specific assessment carried out by the appellants in relation to traffic impacts and accessibility.

Traffic impacts

27. The Framework promotes sustainable transport and requires all development generating significant amounts of traffic movement to be supported by a Transport Statement or Assessment. The appeal proposal is informed by a

Transport Assessment (TA) and a Travel Plan (TP). Both have been prepared in accordance with relevant Department for Transport guidance and the requirements of paragraphs 32 and 38 of the Framework, respectively, and their findings are not disputed by the CHA.

28. The general aim of the TA is to demonstrate that the impact of the proposal on the local highway network would not be significant in capacity terms and, where it may have such an effect, to identify what would be required by way of future improvements. The TP aims to achieve a 10% reduction in single occupancy car trips over a three year period, with continuing action to improve thereafter.
29. Detailed and extensive impact assessments at eight local junctions were carried out as part of the TA under three scenarios. Scenario 1: 2018 Do Minimum plus the 200 dwelling appeal proposal; Scenario 2: 2028 Do Minimum plus the 200 dwelling appeal proposal, and Scenario 3: 2028 (using 2018 Do Minimum flows) plus all Redditch future developments including the full potential 600 dwelling Webheath ADR development.
30. The actual modelling work was undertaken by the CHA's own consultants and was based on its Redditch Development Model. They found that only one of the eight junctions assessed, the Birchfield Road/A448 T-junction, and then only under Scenario 3, would require mitigation works. The proposal provides for a proportional contribution of £30,000 agreed with the CHA towards the cost of those future works, to be secured through the s106 Agreement.
31. Under cross-examination WAG's highway and transportation expert witness acknowledged that he had not carried out any analysis of trip generation, traffic flows, junction capacity or any other technical work to gainsay the findings of the TA.
32. Due to further concerns raised by the Council the appellants also carried out a capacity assessment at Headless Cross, some 2.4km to the south east of the appeal site. It was acknowledged that the area is busy, owing to its proximity to major routes into Redditch town centre and its role as a local centre, but the modelling work did not assign any Church Road development traffic through the Headless Cross Drive arm of the junction. This is because alternative routes are available from Webheath so that traffic does not have to disperse to Headless Cross during peak periods.
33. The assessment found that the Headless Cross Drive arm to be the least busy of the signalised cross-road junction and that it operates within capacity. Despite the findings I note that the s106 Agreement secures a contribution of £30,548 towards the installation of MOVA (Microprocessor Optimised Vehicle Actuation traffic signal control strategy) to improve the operation of the Headless Cross junction.
34. WAG's highway and transportation expert witness also conceded that the 2.4m x 120m visibility splay required by the CHA either side of the proposed new access junction to the site off Church Road could be provided within highway land. However, WAG remained concerned that half the width of a short stretch of hedgerow within the left hand splay is owned by a private third party and was not within the appellants' or the CHA's ownership or control such that provision of the required visibility splay could not be guaranteed.

35. However, having seen this specific stretch of hedgerow, I am satisfied that the required visibility splay can be provided wholly within highway land. The worst case scenario would be that it would necessitate reducing the width of the hedge by cutting it back to the common boundary; however, this may not be necessary as much depends upon the precise alignment of the junction at construction stage.
36. WAG also has concerns about the impact of traffic generated by the appeal proposal on a number of roads and junctions, including the junction of Blackstitch Lane and Middlepiece Drive and along Heathfield Road and Foxlydiate Lane, notwithstanding the findings of the TA.
37. There was concern about the safety of vehicles currently emerging from Blackstitch Lane onto Middlepiece Drive and the increased use of this junction, an acknowledged "accident blackspot," by traffic generated by the appeal development. I noted that there is good visibility to the right and, because the junction is situated relatively close to the junction between Middlepiece Drive and Heathfield Road, traffic turning into Middlepiece Drive from Heathfield Road is still travelling at a relatively low speed by the time it reaches the junction with Blackstitch Lane. Warning signs were erected on the approaches to the junction by the CHA in 2008 and these factors and measures are likely to account for the fact that only one personal injury accident (PIA) has been recorded since then.
38. WAG claimed that the statistics demonstrate that, nationally, there are almost four times as many casualties of road accidents as police data record and was particularly concerned that "damage only accidents" are not recorded. However, WAG brought no substantive evidence to the inquiry to indicate that this junction is currently unsafe, not even as a consequence of cars parking close to it during the school pick up period, or that it would become unsafe as a consequence of the proposed development.
39. It is not disputed that on-street parking along a significant length of Heathfield Road impedes traffic flows especially during peak periods, including the school run. WAG is concerned that the appellants have not identified any obvious measures to overcome the problems which, it claims, would increase as a result of additional traffic generated by the appeal proposal. However, I heard that the CHA has agreed that, if any improvements are deemed to be necessary, parking improvements would be implemented in the form of a Traffic Regulation Order (TRO). These could, for example, include the provision of parking bays and deliberate gaps to assist the flow of traffic.
40. WAG was critical of the fact that the appellants had not proposed to fund specific identified improvements, only the cost of the TRO. However, specific suggestions had been proposed but discounted by the CHA as it wished to control the design of any specific highway improvements. The costs of the TRO had been agreed with the CHA and provided for as part of the s106 Agreement.
41. Foxlydiate Lane is a single carriageway road about 5.5m wide situated to the north of the site and links Church Road, Great Hocking Lane and Cur Lane with Birchfield Road. It has street lighting, footways along one side or the other, a 30 mph speed limit but is undulating in nature and WAG considered it was unsuitable for absorbing increased traffic generated by the proposed development which would use Foxlydiate Lane because it provides the shortest route from the appeal site to the A448.

42. However, the TA demonstrates that as a consequence of the appeal development traffic flows along Foxlydiate Lane would only increase by one vehicle every three minutes under Scenario 2 and one per minute under Scenario 3. I agree that such a small increase in traffic would not have a significant impact on flow and capacity.
43. In conclusion, and having regard to all the other matters raised in connection with this issue, I am satisfied that the appellants' evidence demonstrates that the appeal development would not have a significant impact on highway safety as a result of the traffic generated by it on the local road network, subject to the improvements proposed which can be secured either by conditions or by financial contributions towards the cost of off-site highway improvements. The Framework states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe and from the evidence before me I conclude that this would not be the case.

Accessibility

44. The inquiry heard a considerable amount of detailed evidence relating to these matters with WAG arguing at length that the appeal site is not in a sustainable location. It was claimed that the majority of the houses proposed would not be within convenient walking distance of most local services and amenities in Webheath, that the site is poorly located in respect of, and poorly connected to, the main employment opportunities in Redditch town centre and the industrial estates beyond or for commuting by rail to, for example, Birmingham. Consequently, WAG argued that the proposal would result in most journeys being made by car, contrary to the advice and guidance set out in the Framework.
45. Reference was made to several different reports and the standards contained therein, for example, advisory or recommended walking distances, including the Halcrow Report and Manual for Streets (MfS). WAG claimed, in particular, that the Halcrow Report had found that the Webheath ADR was the most unsustainable of the sites reviewed in terms of accessibility to key services and facilities.
46. The appellants' argued that the Halcrow Report's findings are qualified (as previously referred to in paragraph 25 above) and subject to strategic improvements being made, which the appeal proposal provides; WAG had largely chosen to ignore these. They also argued that advice on walking distances and the like is advice, not Government policy.
47. MfS² refers to "the walkable neighbourhood" being typically characterised by having a range of facilities within about a 10 minutes walking distance (up to about 800m) which residents may comfortably access on foot. However, it stresses that this is not an upper limit referring to previous Government guidance³ which stated that walking offers the greatest potential to replace short car trips particularly those under 2km. MfS then goes on to acknowledge that creating linkages between new housing and local facilities and community infrastructure, the public transport network and established walking and cycling

² Section 4.4

³ Planning Policy Guidance Note 13: Transport

routes are fundamental to achieving more sustainable patterns of movement and to reducing people's reliance on the car.

48. The great majority of local services and facilities found in Webheath are located within 2km of the centre of the appeal site. The site is well located with respect to existing cycle and pedestrian routes and the proposal includes provision for improving accessibility through a range of new cycle and pedestrian routes along Church Road, including a footway to the south and crossing points and connections extending from the proposed site access. The fact that there may not be any secondary schools or supermarkets within walking distance, as was claimed by WAG, is not a good reason for preventing its development for residential purposes in my view. Relatively few people live within walking distance of these facilities and would generally expect to have to use either public transport or the car to access them.
49. The Framework itself is silent on the matter of standards, advocating, instead, the need to reduce travel and giving people a real choice about how they travel. A recent appeal decision⁴ highlights the current approach, the inspector finding that a simple yardstick measure of sustainability was too simplistic both in relation to the site and to other considerations relevant to an assessment of sustainability in the wider context.
50. The Framework recognises that a key tool to facilitate improved accessibility and modal choice will be a TP, which the appellants have submitted. A key part of its strategy for effecting a modal shift is the funding of a new or replacement bus service secured through the s106 Agreement. The proposed service would augment existing services connecting Webheath to the town centre increasing service provision to every half hour between 0700 and 1900hrs six days a week.
51. The suggested route would pass along Church Road, within 400m of the majority of the proposed housing, and provide enhanced access to Redditch town centre including connections to the wider public transport network, and other key local facilities and services. As it would also serve other parts of Webheath not currently served by existing bus services, the proposal would benefit the local community as a whole not just future residents of the appeal scheme.
52. WAG was critical of the fact that the s106 Agreement does not actually appear to secure the bus service suggested by the appellants and the fact that the appellants' transport strategy was based on funding for a limited period when there was no guarantee that the proposed service would be viable once funding ceased. However, the s106 Agreement states that the bus service contribution would be applied towards the provision of a new and/or enhanced service "between Webheath and Redditch town centre via the bus station."
53. With respect to long term viability, the appellants have discussed and agreed this matter with the CHA including all assumptions about costs and future use of the new service. From the evidence before me I have no reason to disagree with the appellants' calculations and business plan that the proposed service would attract the required 240 passengers a day, assuming an average fare of £1 per passenger, which would be needed to keep the service viable without any subsidy funding.

⁴ Appeal decision Ref APP/X2410/A/12/2177327

54. To conclude on this issue, I have already found that, in principle, the appeal site is accessible. The improvements provided by the proposal would further increase its accessibility to local services and facilities, Redditch town centre and beyond. Consequently there would be no conflict with LP No.3 Policies CS.6 and CS.7 or the relevant provisions of the Framework in relation to this matter.

S106 Agreement

55. A comprehensive s106 Agreement signed and dated by the appellants, the Council and Worcestershire County Council (in its capacity as education and highway authority), amongst others, and submitted during the inquiry covers the following matters:

- (i) The provision, and a financial contribution (calculated according to the number of two, three and four bedroom dwellings provided) towards the maintenance costs, of on-site open space and play equipment together with off-site informal open space and playing pitch contributions (calculated according to dwelling size and numbers);
- (ii) The provision of access to, and a financial contribution of £17,750.52 towards the costs of maintaining the balancing ponds, with provision for their future transfer to an approved management company, if appropriate;
- (iii) 40% of the proposed 200 dwellings are to be affordable housing with 65% as social housing for rent and 35% as intermediate affordable housing;
- (iv) A financial contribution towards the cost of provision of additional primary education facilities (calculated according to the size and numbers of open market dwellings provided). I accept that this may not allay all of the concerns raised about the impact of the proposed development on existing schools in the area; however, the contribution has been agreed by the County Education Authority;
- (v) A financial contribution towards the cost of provision of wheelie bins for each new dwelling at a cost of £60.00 per dwelling;
- (vi) The provision of a footway along the south western side of Church Road;
- (vii) Financial contributions towards the cost of provision of off-site highway junction improvements (£60,548), other highway works (£280,000) and Traffic Regulation Order variations as necessary (£3660 per Order);
- (viii) A financial contribution of £59,363.20 towards additional bus service provision between Webheath (incorporating Church Road) and Redditch town centre via the bus station.

56. The backdrop to the obligations is provided by LP No.3 Policy CS.6 which aims to ensure a consistency of approach to planning obligations. It sets out in general terms what is expected of developers in relation to the environment impact of development services, infrastructure and community facilities with further advice, guidance and policies set out in a series of topic-based supplementary planning documents.

57. The contribution towards the cost of provision of off-site highway junction improvements includes a contribution of £30,548 towards the installation of MOVA to improve the operation of the Headless Cross junction, as previously noted in paragraph 32. However, the TA, whose findings are not disputed by

the CHA, found that the proposal would have no impact on the flow or capacity of this particular junction. Consequently, this particular element of the s106 Agreement fails to meet the tests set out in paragraph 204 of the Framework and the Community Infrastructure Levy Regulations 2010 as amended and I have not taken it into account when arriving at my decision.

58. With this one exception, I am otherwise satisfied that the provisions of the s106 Agreement are necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development. There is, therefore, no conflict between the proposed development and LP No.3 Policy CS.6.

Other matters

59. A number of other matters have been raised by local residents, their elected representatives and local interest groups including concerns about surface water drainage and increased risk of flooding downstream from the appeal site, sewage disposal, site contamination, landscape impact including loss of trees, ecology, the impact on archaeology and designated heritage assets and the democratic deficit. All bar the last of these matters are the subject of numerous reports which were submitted at the original application stage, some of which have since been updated. None of these are the subject of objections from the relevant statutory agencies, including the Environment Agency, Severn Trent Water and Natural England.
60. The Council also raised very late in the day the matter of housing land supply, specifically, that its original assessment had changed since it had determined the application.

Flood risk

61. With respect to downstream flooding I heard and saw video evidence of flooding in the area of Norgrove Court and heard concerns relating to flooding in Feckenham, further downstream. I note that this matter was raised at the original application stage but it does not form part of the reason why the Council refused the application.
62. I can understand the concerns raised. However, the submitted Flood Risk Assessment (FRA) notes that the appeal site makes a very minor contribution to the catchment area and that any changes as a consequence of the appeal proposal would be unlikely to increase flood risk downstream. Even so, it is a fundamental requirement of the Framework to ensure that flood risk is not increased elsewhere and the proposal would provide drainage systems designed to manage surface water flows which provide significant betterment to existing Greenfield run-off rates.
63. Two proposed attenuation ponds and the use of flow control devices are designed to ensure that discharge rates would be managed up to and including the 1 in 100 years storm event plus a 30% allowance for climate change. The s106 Agreement secures access to the balancing ponds for maintenance, a financial contribution towards their maintenance and the potential for their future transfer to an approved management company.

Sewage disposal

64. Due to the topography of the appeal site, and in order to achieve the connection point agreed with Severn Trent Water, foul flows would need to be pumped from the western boundary back up to Springvale Road, a proposal which was criticised for being unsustainable. The FRA acknowledges that a gravity connection would always be the preferred option but also notes that this is not always feasible; pumping foul flows is a common factor on development sites across the UK and would not be unique to Webheath. The level of pumping would depend on the level of storage within the pumping station which is to be provided as part of the appeal scheme and discharge rates agreed with the water company.

Site contamination

65. The site contains an abandoned sewage treatment works. The Phase I (desk top) Environmental Risk Assessment (ERA) concluded that there would be no significant risks associated with this or any other potential source of contamination. Nevertheless, it recommended that a Phase II (intrusive) ERA should be undertaken across the site at the appropriate time. I am satisfied that this matter can be dealt with by means of an appropriate condition, as the Council acknowledges, and this would address one of the specific concerns raised.

Landscape impact

66. The appeal site has no specific landscape designations but is valued locally as a green space between areas of adjoining residential development with views over it experienced from the elevated section of the bridleway to the south. However, those views are interrupted by trees and hedgerows most of which would be retained as would important field boundaries. A landscaped buffer adjoining the northern side of the watercourse running along the site's southern boundary would be retained and enhanced as an area of public open space.
67. All trees on the site are covered by a TPO, many of which would be retained. Those which would not be would be compensated for by individual replacement and new structural planting incorporated into detailed landscaping proposals for determination at the reserved matters stage.
68. The proposals would certainly change the landscape by replacing enclosed fields with housing development and, because of the topography of the site, this would require extensive ground remodelling particularly along the steeper slopes. However, change does not necessarily equate to harm. I am satisfied from the evidence before me that the potential impacts have been properly assessed and evaluated and find no reason to disagree with the Council that the proposal could be implemented without resulting in any material harm to the character of the area.

Ecology

69. The impact of the proposals on habitats and wildlife has been independently assessed. There are no statutory or locally designated wildlife sites located within or adjacent to the site but the watercourse running along the southern boundary is identified as needing protection against accidental pollution impacts during the construction phase. Habitats associated with the

watercourse, wooded belts and hedgerows provide locally valuable wildlife corridors through the site but the majority of these are to be retained and recommendations have been made regarding their protection, enhancement and future management. These can be secured by conditions.

70. The site is used by a number of bat species. The proposal would retain the most valuable features used for foraging and commuting and a number of trees have been identified as having bat roost potential. Further survey work would be required prior to commencement of development should these be subject to removal or tree surgery works. Again, these matters can be dealt with by way of conditions.
71. Likewise, recommendations made about the need to monitor a disused badger sett within the site and any new sett activity prior to development commencing and, for precautionary measures relating to clearance of the former sewage works area, to avoid any impacts to grass snakes which may pass through the area. Natural England initially raised concerns about the impact of the proposals on nearby protected newts. However, that objection has since been withdrawn subject to a condition that development is implemented in accordance with a mitigation strategy. There is no objection to the proposal from the Worcestershire Wildlife Trust.

Archaeology and other heritage assets

72. There are no designated heritage assets within the site boundary. However, previous non-intrusive survey has established the presence of ridge and furrow and water management earthworks within the site and, in view of the lack of archaeological investigations carried out in the general area, the possibility of unrecorded buried remains being present cannot be ruled out. Therefore, it is recommended that any permission is subject to a condition requiring an initial programme of archaeological test pitting to identify potential artefacts scatters to be carried out. The County Archaeologist has not raised any objections to the proposal, subject to a condition ensuring that the report's recommendations are implemented.
73. It was claimed by one local resident that the proposed development would adversely affect the setting of the recently Grade I listed Norgrove Court in views from the elevated bridleway situated to the south of the appeal site. Norgrove Court is situated about 1.5km from the point on the bridleway where I found it to be most visible and, even in winter, it was partially screened from view by trees. Given also that in this particular view the eye is drawn away from, rather than down into or over the appeal site, I am satisfied that the proposal would have little if any impact on the setting of Norgrove Court. Even if this was considered to lead to less than substantial harm to its significance⁵ I am satisfied that the harm would be outweighed by the public benefits of the proposal, including much needed new open market and affordable housing.

Democratic deficit

74. Elected representatives suggested that the original decision to refuse the application was democratically taken by locally elected representatives on sound planning grounds and that overturning it would create a democratic deficit. It was claimed that local people would question why a decision so

⁵ Paragraph 134 of the Framework

uniformly supported by the local community made by people they had elected was being changed.

75. I acknowledge that the Government may have raised expectations through its localism agenda that more decisions should and would be taken locally. However, the appeals process, including provision for local public inquiries, exists so that evidence can be rigorously tested and, where found wanting, decisions based on it can be overturned.

Housing land supply

76. When the application was reported to the Council's Planning Committee for determination with a recommendation for approval, officers reported that the Council was no longer in a position where it could demonstrate a five year housing land supply (HLS). When balancing the many factors involved, officers considered that the failure to demonstrate a five year HLS was of greater weight than continuing to safeguard the appeal site (as an ADR) for future development.
77. Indeed, I note that Members received legal advice to the effect that another Council had lost an appeal on a housing site which was allocated as safeguarded land precisely because it could not demonstrate a five year HLS. Members were also advised that their safeguarded land policy would have been devised in the context of a different (lower) housing land requirement and that if that requirement was now out of date then the safeguarded land policy would also be out of date, when read in the context of paragraph 49 of the Framework. Officers concluded their update report by stating that "the case in the main report stands, as strengthened and expanded (by those considerations)... and, therefore, the original recommendation....remains unaltered."
78. The Council informed the main parties to the inquiry, just a few days before it was due to open, that the "position has moved on slightly" and that it could now demonstrate a five year HLS. However, it acknowledges that the revised position is predicated on the assumption that 160 dwellings on the Webheath ADR will be completed during that five year period. Therefore, it is a matter of fact that the appeal site housing forms a critical part of the Council's local housing supply target; to this extent the position has not has changed.
79. That the Council's position changed on the matter of HLS in the immediate run-up to the inquiry and there was no opportunity to test the Council's evidence on this matter at the inquiry was far from satisfactory and, given the circumstances, it is not surprising that the appellants dispute the Council's claim. I also note that a five year HLS can only be demonstrated in one out of four possible scenarios used by the Council to calculate the quantum of supply including the minimum 5% buffer required by the Framework to ensure choice and competition in the market for land. Therefore, I find that the Council has not shown persuasively that the HLS requirements have been met.
80. On the other hand, I have found that development of the appeal site in the manner proposed would be a sustainable form of development fully in accordance with existing development plan policies and the golden thread running through both plan-making and decision-taking.⁶

⁶ Paragraph 14 of the Framework

Conditions

81. I have considered the list of 32 conditions suggested by the Council and largely agreed by the appellants in the light of the advice set out in Circular 11/95 and the discussions which took place during the inquiry. I have amalgamated some of the suggested conditions and amended the wording of others, in the interests of clarity and precision.
82. Given the outline nature of the proposal there are a number of agreed standard conditions which require the submission and approval of further details and phasing, in the interests of appearance. Details of the scheme should also accord with Design and Access Statement, as this forms the background to any grant of planning permission, and with those detailed plans submitted as part of the application.
83. In addition to these outline matters, a range of other details need to be submitted for approval. These include: Measures to protect and replace any damaged retained trees, hedgerows and shrubs together with approved site levels, finished floor levels and internal road levels/details, in the interest of appearance; a Construction Method Statement, to ensure development is carried out in a satisfactory manner; identifying and remediating potential site contamination, in the interests of health and safety; foul and surface water drainage, in the interests of proper drainage and to prevent flooding; archaeology, in the interests of identifying and recording heritage assets, and ecology, including further survey work before works commence on site, in the interests of protecting and enhancing biodiversity.
84. Suggested condition 5 as worded indicates that construction would be permitted within the root protection area of any retained tree. This makes no sense as this would be potentially damaging to any retained tree so I have not imposed it. Suggested condition 10 lacks detail and, therefore, precision and conditions 11, 12, 13 and 16 are all incorporated within the condition I have imposed requiring development to be carried out in accordance with the approved Ecological Appraisal, the Great Crested Newt mitigation strategy, detailed Ecological Design and Management Plans and detailed Construction Environmental Management Plans.

C.S. Kirkbride

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) Details of appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 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.
- 4) The development hereby permitted shall be carried out within the area shown on amended Drawing No. RG20 Site boundary plan dated 09/01/14. The illustrative scheme is shown on Drawing No. RG08 Rev C Application Master Plan as amended (submitted to the inquiry as Plan A) and as described in the Design and Access Statement January 2013 Update.
- 5) The development hereby permitted shall also be carried out in accordance with the following approved detailed plans: 20069_03_010 Rev I (Development Access Right Turn Lane Layout); 20069_03_013 Rev B (Emergency Access Location and Fire Appliance Tracking); 20069_03_025 Church Road Footpath and 7482/01-04 Tree Constraints Plans.
- 6) Prior to commencement of the development hereby permitted, and notwithstanding the provisions of condition 5, engineering details of the Church Road Access shown on plan 20069_03_010 Rev I and the Church Road Footpath indicated on plan 20069_03_025 shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 7) Prior to the submission of any reserved matters, a phasing scheme for the delivery of the whole development hereby approved shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved phasing scheme.
- 8) No development shall take place on any phase as approved under condition 7 until details of existing and proposed site levels and the levels of proposed roads and buildings in that phase have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 9) No development shall take place on any phase approved under condition 7 until the engineering details and specification of the proposed roads and highway drains have been submitted to and approved in writing by the local planning authority. No phase of the development shall be occupied until it has been constructed in accordance with the approved details.
- 10) Each phase of the development approved under condition 7 shall not be occupied until the roadworks necessary to provide access from Church Road have been completed in accordance with details to be submitted to and approved by the local planning authority.
- 11) Prior to the commencement of any site preparation works, details of an Arboricultural Method Statement shall have been submitted to and approved in writing by the local planning authority. Such details shall identify all existing trees, hedgerows and shrubs to be retained and the measures to be taken to protect them during the construction of the development, in accordance with BS5837. The approved measures shall be carried out prior to the commencement of each phase of development and retained at all times until each phase of the development, as approved under condition 7, is occupied.

- 12) In this condition "retained tree" means an existing tree, hedgerow and shrub which is to be retained in accordance with the approved plans and particulars; and paragraphs (i) and (ii) below shall have effect until the expiration of 5 years from the date of the occupation of the final dwelling constructed unless the retained tree is the subject of a Tree Preservation Order.
- i) No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the local planning authority. Any topping or lopping approved shall be carried out in accordance with the BS3998.
 - ii) If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the local planning authority.
 - iii) The erection of fencing for the protection of any retained tree shall be undertaken in accordance with the approved plans and particulars before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written approval of the local planning authority.
- 13) The development hereby permitted shall be carried out in accordance with the recommendations set out in the approved Archaeological Desk Based Assessment Report No: CSA/1621/02c. If any archaeology not previously identified is found during any site works, work on that part of the site shall cease, the local planning authority notified and any necessary remedial or recording works agreed, including an implementation timetable, prior to work on the affected part of the site resuming. The actions agreed shall be implemented as approved.
- 14) The development hereby permitted shall be carried out in accordance with the recommendations set out in the approved Ecological Appraisal Report No. CSA/1621/01d and the Great Crested Newt Mitigation Strategy Report No. CSA/1621/04 and update submitted with the appellants' letter dated 29/01/14.
- 15) Prior to each phase of development commencing, as approved under condition 7, an Ecological Design and Management Plan shall be submitted to and approved in writing by the local planning authority. Such plans shall include details for creating new wildlife habitats and enhancing other opportunities for wildlife; retaining and managing woodland areas; gapping up/creating a new native hedgerow along the Church Road frontage; drawing up and implementing biodiversity method statements for dealing with protected species including supervision by a qualified ecologist. Development shall be carried out in accordance with the approved plans.
- 16) Prior to each phase of development commencing, as approved under condition 7, a Construction Environmental Management Plan shall be submitted to and approved in writing by the local planning authority. Such plans shall include a programme for site clearance, groundworks and other operations likely to affect wildlife and habitats and method statements for protecting wildlife and habitats, including prevention of sediment or materials hazardous to wildlife from entering watercourses and ditches, building demolition to protect nesting birds and roosting bats; soil handling, movement and management including retention of topsoil from fields F8 and F9 for use in reinstating species rich grassland around water attenuation and hedgerow margins, and control of invasive and non-native

- species. Development shall be carried out in accordance with the approved plans.
- 17) The development hereby permitted shall be carried out in accordance with the recommendations set out in the Phase I Environmental Risk Assessment (ERA) Report Ref: 20069/JW/05-12/3072.
- 18) No development shall take place until:
- (i) Details of a scheme to deal with the risks associated with site contamination have been submitted to and approved in writing by the local planning authority (Phase II ERA);
 - (ii) The results of the site investigation shall be made available to the local planning authority before any development begins. If any contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures before development begins;
 - (iii) A verification report providing details of the data collected to demonstrate that the approved remediation works have been carried out and identifying any requirements for longer-term monitoring and contingency action shall be submitted to and approved in writing by the local planning authority;
 - (iv) If, during the course of development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority. Site remediation shall incorporate the approved additional measures.
- 19) Prior to the development hereby approved commencing full details of a scheme for foul and surface water drainage, as recommended by the approved Flood Risk Assessment Report Ref: 20069/PS/05-12/3061, shall be submitted to and approved in writing by the local planning authority. The scheme shall be implemented as approved and shall include the following specific flood risk mitigation measures:
- (i) Limiting surface water run-off generated by the 1 in 100 year plus 30% climate change allowance critical storm event so that it will not exceed the run-off from the undeveloped site and increase the risk of flooding elsewhere;
 - (ii) Implementation of sustainable urban drainage systems (SUDS) techniques, including attenuation ponds and their maintenance and adoption for the lifetime of the development, details of which shall have been submitted to and approved in writing by the local planning authority prior to commencement of the development hereby permitted;
 - (iii) Total surface water run-off rates for the developed site are to be no greater than 43.9 litres/second with suitable on-site attenuation storage provided to ensure that no flooding occurs up to a 1 in 100 year plus 30% rainfall event.
- 20) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority for each phase of the development approved under condition 7. The approved Statement, which shall be adhered to throughout the construction period of each phase, shall provide for:
- (i) hours of working
 - (ii) the parking of vehicles of site operatives and visitors
 - (iii) loading and unloading of plant and materials

- (iv) storage of plant and materials used in constructing the development
- (v) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- (vi) wheel washing facilities
- (vii) measures to control the emission of dust and dirt during construction
- (viii) a scheme for recycling/disposing of waste resulting from demolition and construction works.

Richborough Estates

APPEARANCES

FOR THEWEBHEATH ACTION GROUP:

Freddie Humphreys He called Dean Watkin, HNC(Civil Eng) IEng MCIHT	Instructed by PJB Planning Director, DW Transportation Ltd
Andrew Warby	Committee Member, Webheath Action Group

FOR THE APPELLANTS:

Ian Dove, QC He called Alexander Bennett, BSc(Hons) MCIHT	Instructed by Barton Willmore LLP Director, Mewies Engineering Consultants Ltd (M-EC)
Kathryn Ventham, BSc(Hons) MSc MRTPI	Planning Partner at Barton Willmore LLP

INTERESTED PERSONS (in order of appearance):

Mrs Lucy Lurmer	Office Manager for Karen Lumley, MP
Cllr David Bush	Local ward councillor
Margaret Hughes	Local resident (also read out a statement by Ian McQuaid)
Peter Batty	Local resident
Peter Bridle	Local resident
Cllr Carole Gandy	Borough councillor
Adrian Bedford-Smith	Local resident and riparian owner
Malcolm Phillpotts	Local resident
David Rose	Local resident
Peter Cartwright	Local resident
Lynda Warby	Local resident
Cllr Robin Lunn	Local county councillor
Cllr Michael Braley	Local ward councillor
Ben Sinclair	Local resident
Miss Val Kendrick	Chairperson, Redditch CPRE
Elizabeth Morris	Local resident
Peter Bailht	Local resident

DOCUMENTS

- 1 Appeal decisions Refs APP/N1540/A/11/2167480 & 2174502 issued by the Secretary of State for Communities and Local Government on 15/11/13 (with Inspector's report and recommendations) (submitted for the Appellants)
- 2 Signed and dated Agreement under the provisions of Section 106 of the Town and Country Planning Act 1990 as amended between Redditch Borough Council, Worcestershire County Council, the appellants and others (submitted for the Appellants)
- 3 *Redditch Development Sites – Highway Impact and Accessibility Modelling* (Halcrow Group Limited, May 2011) (submitted by the Webheath Action Group)
- 4 Bundle of statements read out or referred to by interested persons
- 5 Letter dated 19/01/14 submitted by George Ostroumoff, a local resident
- 6 List of conditions suggested by the Council

PLANS

- A Revised copy of Drawing No. RG08 Rev C (Application Master Plan) showing indicative location of proposed sewage pumping station but omitting the indicative proposed access route to it (submitted for the Appellants)

PHOTOGRAPHS

- 1 Recent local flooding (submitted by Peter Cartwright)