



Appeal Decision

Inquiry opened 5 April 2016

Site visit made on 7 April 2016

by J S Nixon BSc(Hons) DipTE CEng MICE MRTPI MCIHT

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

Decision date: 19 May 2016

Appeal Ref: APP/W1850/W/15/3039164

Land off Penkcombe Lane, Bromyard, Hereford, HR7 4SS.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the Act) against the refusal to grant outline planning permission.
 - The appeal is made by Gladman Developments Ltd against the decision of Herefordshire Council.
 - The application Ref. No: 14/1481/OUT, dated 15 July 2014 was refused by notice dated 4 March 2015.
 - The development proposed is for a residential development of up to 120 dwellings with associated open space and landscaping, with all matters reserved except for access.
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Decision

1. For the reasons given below, this appeal is dismissed.

Preliminary matters

2. The application was made in outline, with all matters other than access reserved for future consideration. There was an Officer recommendation for approval, but Members took the decision to refuse the application for four reasons. Of these, the first two embracing landscape objections were pursued at the inquiry. The third, concerning prematurity, was dropped following the adoption of the Herefordshire Local Plan Core Strategy 2011-31 (CS), in October 2015. The fourth, relating to the lack of a s.106 Undertaking, was not defended once a draft s.106 had been tabled.
 3. Following issue of the Council's refusal notice, the Appellants submitted a further identical application for development on the appeal site. This was also refused and appealed. However, in this case the appeal was withdrawn, before the exchange of evidence.
 4. After the refusals of both applications, it was decided to request that the appeal was dealt with on the basis that all matters should be reserved for subsequent approval, including access, which would form part of the reserved matters application. The intention was to avoid objections by the local highway authority to the creation of a priority junction close to where it was envisaged that a main roundabout access would be located to serve a large strategic housing site at Hardwick Bank, confirmed in the adopted CS.
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However, late in the day, and mainly highlighted by Members of the Town Council and some third parties, a further concern arose about the ability to deliver a safe and convenient pedestrian access to the site from the A44.

5. It is argued by the Appellants, and supported by the Council, that this change would deliver benefits without adversely affecting any relevant interest or party. The Wheatcroft Judgement was prayed in aid on the basis that this Judgement allowed a change in an application so long as no person or party would be prejudiced adversely. As such, it was asked that the amendment be considered as a substitute proposal.
6. This approach raises two main questions. First, has the consultation on the withdrawal of access been canvassed sufficiently to remove the possibility that any interested person or party would be unduly prejudiced? If not, this would fall foul of the Wheatcroft Judgement. The second point is whether there is a reasonable prospect of delivering an acceptable and safe access regime to the site? These are looked at in turn.
7. There was extensive consultation on the desired withdrawal of access as a matter to be determined at this stage and all those commenting on the proposals were advised of the position. This consultation attracted a number of objections to this change from the Bromyard Town Council and other individual interests. Having carefully considered the scope of the consultation and the points of objection, I am confident that in terms of removing the vehicle access to the appeal site from consideration at this stage, no-one's position would be unduly prejudiced. Moreover, as the vehicle access would have to be submitted as a reserved matters application everyone would again have the opportunity to comment on the details of the proposals, which seem likely to involve a roundabout access to serve both the appeal site and Hardwick Bank.
8. Importantly, having regard to the exchange of correspondence, there is reasonable prospect of a positive outcome, and, of course, it is in both 'developers' interests. This would fall within the envelope provided in the Wheatcroft Judgement.
9. A specific concern raised by third parties is that the delay in deciding the location and form of the vehicle access to the appeal site could somehow prejudice the construction of a link road through the Hardwick Bank site to bypass the Town and join the A44 to B4214 Tenbury Road on the northern edge of Bromyard. From the submissions, I see no reason for this to be the case.
10. The Council confirmed that it has no proposal for the link road and it is not a scheme referred to in the existing or emerging Local Transport Plans. As such it would have to be developer led. The first section could be built as part of the first stage of the Hardwick Bank scheme, with the opportunity to link this through the second or subsequent phases. The crucial point is that the CS Policy BY2 does not envisage a second phase that would provide the opportunity to complete the link within the current CS Plan period, but leaves the option open for some time after.
11. This means that the build-out of the Hardwick Bank site would not be affected by progress on the appeal site, as there would still be the balance of the 500 houses to be found for Bromyard during the Plan period. Thus, the creation of

an access for the appeal site and the building out of the proposed scheme should have little or no effect on the building out of the later phases of the Hardwick Bank proposals. In practice, it is possible that the creation of a main access from the A44 could be a driver towards later provision of a through route. As it stands today, there is no economic viability assessment to demonstrate that the Hardwick Bank development could fund the through route locals desire. As such, this does not constitute a cogent objection to amending the appeal scheme to withdraw consideration of vehicle access.

12. Having looked very carefully at the likely effects of the changes to the proposal, I find myself unable to acquiesce to the request to remove access as a matter for consideration at this stage. Although there are technical/geometric and common sense arguments to suggest that the envisaged location and form of the vehicle access, to combine with that likely to come forward as part of the Hardwick Bank site, should be acceptable, the same cannot be said of the pedestrian access.
13. The technical justification for this conclusion is explained later, but I am clear that it would be inappropriate to grant outline planning permission if there is not a reasonable prospect of achieving a safe and acceptable access for vehicles, cycles and, in this case, crucially pedestrians. I cannot conclude on the basis of the information available that there is a reasonable prospect of delivering a safe and acceptable access for pedestrians. Accordingly, it is necessary to consider the merits of both the proposed vehicle and pedestrian accesses as contained in the application and elevates this to a main issue.
14. Statements of Common Ground on planning, including an update, and highways matters were agreed by the main parties and a draft s.106 Planning Agreement was tendered before the inquiry opened. Following discussions at the inquiry an updated set of draft conditions was agreed by the main parties.
15. Finally, the Council did issue a Screening Opinion confirming its view that the building of up to 120 dwellings on the appeal site did not constitute Environmental Impact Development and that the preparation of an Environmental Statement was unnecessary. On the basis of the information provided, I see no reason to disagree and the appeal has been determined on this basis.

The relevant policies

16. In line with s.36(6) of the Planning and Compulsory Purchase Act 2004, this appeal must be determined in accordance with the prevailing development plan (DP) policies unless the material considerations indicate otherwise. In this case, the DP includes the recently adopted Local Plan Core Strategy. This replaces the Herefordshire Unitary Development Plan 2007 (UDP).
17. In the CS, the appeal site is grade 2 agricultural land, which lies in open countryside, outside, but abutting the former settlement curtilage of Bromyard. Although the appeal land comprises two sites that were included in the Strategic Housing Land Availability Assessment (SHLAA), for landscape impact reasons these were not taken forward as preferred sites into the CS. As such, the appeal site is not allocated for housing.
18. Having said this, Bromyard is one of five towns, outside Hereford itself, where growth potential is identified and CS Policy SS2 confirms that a minimum of

500 new homes is expected to be accommodated in the Town during the Plan period. Moreover, apart from the major strategic site of Hardwick Bank around the north and west of Bromyard, where a minimum of 250 new homes is planned for the Plan period and outline planning permission granted recently for 76 further dwellings on land to the north of the Town on Tenbury Road, the preferred location for the balance is to the west of the Town. This is entirely understandable as development of land to the east of the Town is constrained by the River Frome flood plain and rising land to the Bromyard Downs. As the Appellants point out, the appeal site lies to the west of the Town and the CS, in its reasoned justification for Policy BY2, states that *"...the environmental suitability of including additional land south of the A44...will also be considered and consulted upon after further technical analysis"*. This reference would, of course, include the appeal site.

19. In the Council's reasons for refusal four saved policies from the UDP are cited. These are Policies S1, LA2, LA3 and LA5. With the adoption of the CS, these policies have been superseded and replaced by the closest equivalents in the CS, which are Policies SS1, SS6, LD1 and LD3. Policy SS1 confirms the presumption in favour of sustainable development, with the other three designed, respectively, to retain and improve environmental quality and local distinctiveness, landscape and townscape and green infrastructure.
20. In addition, CS Policy SS3 is important in ensuring a continuous supply of available housing land and Policy SS4 looks for development to deliver sustainable and safe modes of travel. Specific to Bromyard are CS Policies BY1 and BY2. As referenced above, the former looks for the provision of a minimum of 500 new homes in Bromyard over the Plan period and Policy BY2 provides for the Hardwick Bank development to deliver a minimum of 250 new homes over the same period.
21. As these policies were adopted following publication of the National Planning Policy Framework (the Framework), under normal circumstances these can be afforded full weight. That is, unless the housing land supply position is such that any are deemed to control the building of houses, which would render them out of date.
22. In terms of Supplementary Planning Guidance, there is a Landscape Character Assessment 2004 (updated in 2009), which places the appeal site in the Timbered Plateau Farmlands and forms part of the evidence base informing the application of CS Policy LD1. A Supplementary Planning Document entitled Planning Obligations 2008 is also tendered.
23. The Town is in the process of preparing a Neighbourhood Plan, which is at a very preliminary draft stage, whereby only the boundaries of consideration have been agreed. Under these circumstances no material weight can be lawfully accorded to aspirations for the Plan expressed by third parties, including the Bromyard and Winslow Town and Avenbury Parish Councils.
24. Returning to the Framework and the Planning Practice Guidance (PPG), which is a living document designed to put flesh on the Framework policies, these clearly deliver the Government's position. Of relevance to the appeal scheme, there is the presumption in favour of sustainable development, the urgency to boost significantly the supply of housing and the consequences of not being able to demonstrate a 5-year supply of readily available housing land and a continuing failure to deliver at the planned annual rate. In addition, the policy

guidance on the approach in assessing and the weight to be accorded landscape interests are also pertinent, and especially Framework paragraphs 109 and 131. With regard to access and transport matters, paragraphs 32 and 35 of the Framework are also important.

Main Issues

25. Having regard to the above, and from the evidence presented to the inquiry, the written representations and visits to the appeal site and surroundings, it follows that the main issues to be decided in this appeal are:-
- a) whether the Council has a 5-year supply of deliverable housing land;
 - b) the effects on the character and appearance of the area, including the wider landscape and the setting of Bromyard;
 - c) whether satisfactory and safe access can be provided to serve the development; and
 - d) whether, in the planning balance, the proposed development can be considered sustainable the terms expressed in the Framework.

Reasons

Housing land supply

26. At the time the Council decided to refuse the application the CS had not yet been adopted and it accepted that it could not identify a 5-year supply of readily available housing land (the housing land supply or HLS). The Officer's recommendation was predicated on this basis. However, on adoption of the CS the Inspector's Report said that the Council could demonstrate a 5.24 years supply, which she considered marginal, but realistic. The adopted CS 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 housing development requirements for the authority.
27. From this apparently settled position in October 2015, two appeals into the refusal of housing development in Herefordshire have been dismissed with the Inspectors concluding in each case that there was not a robust 5-year HLS. In the more recent case in Ledbury, the Inspector concluded that the circumstances relating to housing land supply are fluid and, based primarily on early slippage in delivery on some sites and an over optimistic expectation about lead times for others, there was not a 5-year supply of readily available housing land and that this needs to be addressed now.
28. The Bromyard inquiry did not investigate the housing land position on a site by site basis, but there is nothing in the evidence to suggest that the Inspector's conclusions at Ledbury do not still pertain and in reality, the supply figure may be somewhat worse.
29. In this context, the Council has not moved to address the shortfall in the supply of housing land by adopting any of the protocols outlined in the recently adopted CS Policy SS3, which sets out options and mechanisms where, as here, monitoring shows that the number of new dwelling completions is below the cumulative target figure over a 12-month period (1

April to 31 March). This could include a partial review of the CS, preparation of a HLS Development Plan Document (DPD), or publication of an interim position statement using evidence from the SHLAA to identify additional housing land.

30. As noted, the appeal site was identified in the SHLAA as having the potential to deliver housing within the Plan period. This, of course, does not guarantee that it will be allocated for residential development in any new plan or indicate that an application for housing would be successful in obtaining planning permission. However, the appeal site, lying as it does, to the west of the Town is in the preferred location for additional sites and is a site where more consideration and analysis is expected. This further assessment has been undertaken as part of this appeal application, a fact accepted by the Council. As such, and with no evidence to suggest that the Council can now demonstrate a 5-year HLS, development of the appeal site would not offend CS Policy SS3, designed to ensure the availability of sufficient housing land.
31. Thus, and pursuant to paragraph 49 of the Framework, it is common ground that CS Policies SS2, SS3, BY1 and BY2 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.
32. In this case, albeit the appeal site abuts the built curtilage of the Town, it is in the open countryside and comprises agricultural Land Classification Grade 2. Where a 5-year housing land supply cannot be demonstrated, and no lower quality agricultural land is available locally for needed development, Grade 2 land would need to come under consideration.
33. Similarly, for land on the edge of a town, with no higher level of landscape protection, as here, sites warrant further scrutiny. In this regard, the Council accepts that there will be instances where the minimum growth targets of the CS are exceeded over the Plan period through the granting of planning permissions that represent sustainable development. Bearing this in mind, it is the environmental dimension of the development that needs to be considered, including landscape and townscape setting and access, and this is examined below.

Effect on landscape and townscape

34. The appeal site attracts no special landscape designation. It is neither internationally nor nationally recognised and is not covered by a local qualitative landscape designation such that it falls within paragraph 113 of the Framework. Even so, the difference between the parties about the effect the appeal scheme would have on the landscape character and visual presentation is marked.
35. In its evidence, the Council submits that it is within the Landscape Strategic Corridor as part of BroLSC 2 and in the Urban Fringe Landscape Sensitivity Analysis it is judged to be highly sensitive. In the Landscape Character Assessment it forms part of the Timbered Plateau Farmland and lies in the Bromyard Fringe Zone BroFZ2. It claims further that the site is part of a locally valued landscape asset under Framework paragraph 109 and should be

safeguarded. Against this background, the Council concludes that the adverse effects on its character and visual presentation would be highly significant, justifying a compelling reason for resisting the loss of the contribution it makes in its undeveloped state. As such, the adverse landscape impacts on their own constitute the significant and demonstrable harm sufficient to outweigh the benefits of the proposal taken as a whole.

36. On the other hand, as the Appellants argue that the site is not a designated or valued landscape in the terms expressed in the Framework and represents nothing rare, unique or specific or of notable qualities that define the landscape character of the area. Consequently, the objections on landscape grounds cannot be significant. Although local people might value it, this does not, of itself, make it into a valued landscape in the Framework terms. The appeal scheme, and especially the Landscape Strategy Proposals, would respond positively through the retention and management of the existing landscape features of import and provide a new gateway area of open space. As such, the Appellants contend that harm to the landscape character and value should not be judged as "*significant and demonstrable*" to the setting of Bromyard or the wider rural context. At worst the overall visual effects would be moderate adverse and in the wider context minor adverse.
37. For my part, I acknowledge that the theoretical zone of visibility includes land immediately to the west and then a more extensive tranche of distant land occupying an elevated position. In between these two areas there exists a section of lower lying ground that offers only very limited views from distance.
38. Looking at these areas on site, I agree that the landscape impacts would be limited in extent and no distant views would be affected to any significant degree. From the higher land to the west, the appeal site occupies only a relatively small area in the wider panorama and during summer, the site would benefit from appreciable screening, thereby offering only filtered views.
39. From the roads either side of the appeal site and the PF AV8 to the south west, which is part of a circular walk around Bromyard, the views of the site would be much more prominent, even with the retention of the hedges and the strengthened landscape belt to the west. However, the recent development that tops the crest immediately to the east of the appeal site has changed views towards the Town and eroded the previous landscape character appreciably.
40. In earlier views when approaching Bromyard from the west along the A44 Worcester Road, there was one prominent building rendered in white that looked just like an isolated rural structure. The photograph produced shows that nothing beyond this building was visible. Similarly, from Pencombe Lane and the PF, nothing other than this building stood to the west of the crest. However, the recent additions in a brick that materially changes the visual perspective on this approach to Bromyard. Importantly, these dwellings are right on the crest, even appearing from some locations to tip over the edge. Thus, they have introduced a prominent urban feature on what was previously a distinctly rural approach to Bromyard. As such, the boundary and setting to Bromyard, on approaches from the west, have been eroded markedly.
41. There is no doubt that the appeal scheme would extend development much further down the slope and greatly emphasise the urban feel. This would be increased by the usual trappings of domesticity and the public and private

lighting that would be introduced during the hours of darkness. Whereas the adverse impact on the character and visual appreciation of the landscape would have been much more highly significant without the recent additions, in the context of which the proposed development would now be closely seen and read, the current adverse impact could, at worst, only be moderate adverse. Even then, with the envisaged roundabout access and other highway accoutrements that would come with the access to the Hardwick Bank Site this would itself extend the urban grain and create a new gateway to the Town further to the west.

42. In summary, there are positives in the arguments advanced by both the Appellants' and the Council's landscape experts. However, when looked at in the context of what is there now and approved strategy for development to the west of the Town, the adverse changes to landscape character and visual presentation would be modest and localised and not detract a great deal in the wider landscape panorama. Overall, the negative effects on landscape would be there and this should be taken forward to the planning balance. However, I concur with the Appellants that the adverse effects on landscape would not of themselves be judged as "*significant and demonstrable*" to the setting of Bromyard or in the wider rural landscape. In particular, the proposal would not breach any CS landscape protection Policies LD1 and LD3 or impinge on the relevant paragraphs of the Framework policy.

Access

43. As a matter to be considered at this stage, there are two strands to the issue. First, whether the proposed T-junction access would be acceptable, having regard to the proximity of the access options to serve Hardwick Bank. Secondly, the ability to provide a sensible and safe pedestrian access to the appeal site. These are looked at in turn.
44. As for the first strand, it is obvious from the debate that full discussion had taken place between the Appellants and the Local Highway Authority. This concluded in an agreement that the priority junction proposed initially would work perfectly well in isolation. From the information provided, I see no reason to disagree.
45. It is the recent adoption of the CS, with the Hardwick Bank site included as a strategic housing site, which brings into question the acceptability of the priority junction. The proximity of the available access point from the A44 to the Hardwick Bank site means that the two access points would be relatively close together. As such, it is necessary to consider the interaction between the two schemes and the potential risks to highway safety and maintaining the free flow of traffic. When this is appraised, there can be no doubt that two junctions so close together would be untenable in highway safety and capacity terms.
46. In particular, the need to accommodate right turning traffic into and out of the two sites would be extremely difficult, if not impossible, and likely to require substandard geometry. This would almost certainly involve landtake on both sides of the A44 to complete the necessary works, and there is no agreement or even approved design to this effect. If allowed to proceed in this way, I am certain that it would produce a residual outcome that would be severe in the terms espoused by paragraph 32 of the Framework and should be strongly resisted. As is demonstrated, and agreed by the main parties, a

combined roundabout access to serve both the Hardwick Bank and the appeal site would be a safe and sensible way forward.

47. Moving to the second matter, that of pedestrian access, the submitted scheme shows two pedestrian access points towards the eastern end of the appeal site. One would be to the A44, providing a footway link to the existing Pelican Crossing just west of the junction of the A44 and the B4214 and the other would come out at the junction of Pencombe Lane and the B4214 Pannier's Lane, with a footway turning north to allow a crossing point to the High School at a location away from the junction. These form part of the outline application submitted and were not reserved for subsequent approval.
48. If we look first at the access to the A44, there are several difficulties in achieving what is proposed. Crucially, the land to provide the footway link from the appeal site to the Pelican Crossing is not under the control of the Appellants and neither is it within the adopted highway boundary. What vacant land there is lies within the curtilage of a new dwelling. Although the Appellants state a belief that the necessary rights could be obtained from the owners at a 'reasonable' cost, common sense says that market forces would prevail. In the final analysis, to provide the necessary footway width and protection could involve buying the entire property. This would raise viability questions for contributions towards affordable housing and other infrastructure needs. If this was left open ended then, in my opinion, it would breach the Wheatcroft Judgement principles and could change the application proposals materially.
49. Even if the acquisition of the land between the kerb and the structural wall of the new dwelling could be achieved at a 'reasonable' cost, this would not address the problem. Crucially, the width between the dwelling recently constructed and the kerb of the A44 would not allow a 2m footway to be provided. Equally important, the dwelling appears to have been constructed with a floor level considerably higher than the carriageway level of the A44 at that point. This means that the footway would have to be retained either alongside the dwelling or carriageway. Whichever is chosen, this would take space to engineer, further reducing the available width for the footway. There must also be the possibility of compromising the foundations of the dwelling.
50. Next, this is intended to be a link for children from the existing residential development to the north of the A44 to use the open space in the north eastern corner of the appeal site and for residents on the appeal site to access the bus stops in Winslow Road. Now design is a reserved matter, but the open space is promoted as a key element of the appeal scheme in this location. It is described as a 'gateway' feature, with its availability to be used by children from north of the A44 advanced as a major benefit of the appeal scheme.
51. In my professional judgement, and as indicated at the inquiry, the risk to children attempting to cross the road just to the west of the Pelican in a direct line with the open space would be unacceptable unless controlled. As a consequence, I have no hesitation in saying that the footway between the play area and the Pelican must be segregated from the traffic on the A44 by a pedestrian guardrail and this again would require further width. I am convinced that all these tensions are incapable of resolution within the 'vacant' space available.

52. When these doubts were raised, the Appellants' highway witness devoted considerable time and expertise in trying to devise a satisfactory alternative. Four options were tabled. The first of these was a minimalist fall-back position that adopted the pedestrian access from the south east corner of the appeal site to the junction of Pencombe Lane and Pannier's Lane, as described above.
53. Again there are physical challenges insofar as there is an appreciable level difference between the appeal site and the roads. However, with careful grading of the pedestrian route and a guardrail to prevent people emerging onto the junction itself, I agree that an acceptable pedestrian access could be achieved in this location. Crucially, however, this would not provide an attractive pedestrian access route for children to the north of the A44 to access the open space feature on the appeal site. For this, the minimalist fall-back option would involve a lengthy diversion and would, therefore, be unacceptable.
54. Additionally, whereas this might provide acceptable general pedestrian access to the High School and the Town, for many on the appeal site it would place the bus routes beyond the 400m usually seen as acceptable distance. This would render bus use far less attractive.
55. It was suggested that this could be addressed by one of three further options. An uncontrolled crossing point on the A44 in the vicinity of the open space; a pedestrian crossing point utilising the splitter island on the envisaged roundabout access that would be designed to serve both the appeal site and Hardwick Bank; or the introduction of an island within the main carriageway of the A44 at a location at some point between the proposed roundabout and the Pelican Crossing. The second and third options would then require pedestrians walking on the north side of the A44 to reach the Pelican Crossing and through the appeal site internal road/footway system to effect the return journey.
56. Once again the site visit demonstrated to me the unsuitability of these three options, without significant engineering intervention. For the first, an uncontrolled crossing adjacent to the open space would be a hostage to fortune for children wishing to use the desire line between properties to the north of the A44 and the open space. Crucially, for vehicles travelling east along the A44 towards Bromyard there is a 'see through' situation, whereby the signal head of the Pelican can be seen for a considerable distance to the west. To allow uncontrolled crossing in these circumstances would be potentially dangerous. Experience shows that locations in the 'shadow' of a controlled crossing are inherently less safe.
57. As for the other two options, I found walking along the northern verge of the A44 extremely intimidating and this would be unacceptable for children or the elderly. There is no kerb for most of the route and it offers only a narrow useable track. In my professional opinion, for this to prove a realistic route for pedestrians, and especially unaccompanied minors, it would have to be kerbed, with some physical segregation. It is not clear that this could be achieved within the current highway boundary. Even if it was possible, it would not provide a realistic and attractive desire line for access to the open space from the existing dwellings to the north of the A44.

58. In this context, I acknowledge that vehicle speeds on the A44 should reduce if the speed limit is lowered. However, this does not remove my concern brought about by the intimate relationship that would exist between the categories of vehicles using an A-class road and a substandard footway.
59. In summary on this second matter, I do not believe there is a reasonable prospect of achieving an acceptable and safe pedestrian solution to from the appeal scheme to the A44 that links with the existing Pelican Crossing and provides a safe route for children from the north to access the open space/play area.
60. There is one other matter that should be aired at this stage and that is the consequences for the hedge on the northern boundary of the appeal site running alongside the A44. For any of the options for a priority junction, a roundabout or a pedestrian crossing point, other than the application proposal, it would result in the removal of an extensive length of this hedge. This is an important landscape feature and its replacement away from the A44 would have some problems to address.
61. As was talked about at the inquiry, it would be possible to translocate the existing hedge at the right time of the year or to plant a new hedge as a replacement. The difficulty here is the level difference between the appeal site and the carriageway of the A44. If the ground was built up then the hedge could be judged as an equivalent reinstatement, but if it had to be planted at the lower level, then its usefulness as a feature and as a screen to the new development would be substantially diminished. Although the basis of the replacement could be conditioned, it would be sensible to know what is achievable and realistic beforehand.
62. Summing up on the access front, as noted previously, I would be content to withdraw determination of the proposed priority junction access to the appeal site at this stage. However, the same cannot be said of the pedestrian accesses to the appeal site scheme. Here, the difficulties in providing something acceptable leads me to conclude that there is not a reasonable prospect of delivery. Crucially, the lack of an identified safe and convenient pedestrian access to the appeal site from the A44 constitutes a compelling reason for resisting the current proposal on this basis alone.
63. As such, conditioning an outline planning permission, would essentially be accepting in principle a scheme without such reasonable prospect. This would not meet the tests of reasonableness evinced by the PPG. Looked at in this way, the problems pertaining to both the vehicle and pedestrian accesses under consideration at this time, produce compelling reasons, both individually and cumulatively, for resisting the present proposal. This would contravene CS Policy SS4 and Framework paragraphs 32 and 35 that seek to provide safe access to new schemes.

Sustainability

64. The Framework defines sustainability as the golden thread running through both plan-making and decision-taking, and looks for proposals to be assessed against the three dimensions, economic, social and environmental. The Framework also sets out the 12 core planning principles underpinning planning decision taking and these provide useful guidance on how the sustainability accreditation of individual applications should be assessed.

These principles have been factored in when weighing the benefits and disbenefits of the appeal scheme.

Economic benefits

65. As for the economic dimension, this particular proposal would generate most of the benefits of any housing development and Government recognises the importance of these. There would be the short term construction jobs and purchase of building materials and, in the future the generation of service jobs such as cleaning, child care, decorating and household repairs. A proportion of the income of new residents would be disposable and this could be used to support the local facilities, businesses, buses and other activities in the Town.
66. The Town offers a range of facilities and most of these are within the maximum walking range. Taken together, these factors would deliver a positive sustainability accreditation for this dimension.

Social benefits

67. Turning to the social benefits, depending on the outcome of a final viability assessment for the site, a gain would be some affordable housing provision. Other than the significant caveat about securing a suitable pedestrian access, there appears to be few other unknowns in the construction and related costs. Then there would be the provision of general market housing, in a situation where the supply and delivery falls short of the planned figure.
68. The appeal scheme would deliver nothing new for the Town in terms of providing services. However, again depending on the final viability assessment there would be financial contributions of support through a s.106 Undertaking. There would also be the open space/play area available for existing residents to the north of the A44. Against this background, I find the social benefits of the proposed development for the existing Town limited, if just positive.

Environmental benefits

69. Finally, when considering the environmental dimension, benefits are very definitely harder to find. As for the effects on landscape character and visual impact, these would be negative for the reasons given previously, albeit not determinative on their own.
70. Turning to the accessibility of the Town, the appeal site allows most of the existing facilities to be reached by walking, though some destinations would be at the limit of acceptability. Any alternative pedestrian access from that shown on the application plan would add walking distance to key destinations in the Town. As it currently stands, however, the lack of being able to identify a deliverable, suitable and safe vehicle and pedestrian connectivity does provide a compelling reason for objection.
71. Turning now to other possible environmental effects, on the topic of ecology, the appeal site hosts no protected or uncommon species of flora or fauna. There may be rarer visitors, but the redevelopment of the site would provide some opportunity to enhance the habitat. Next, there would be the loss of Grade 2 agricultural land, which is a negative component. However, this is tempered by the fact that a large proportion of the surrounding land is of

similar quality and this parcel forms only a very small part of a large land holding, located predominantly on the other side of the Town. As such, its loss would not prejudice the viability of the holding.

72. A number of the third party representations raise objections to the loss of view and the consequent fall in house values that would follow building on the open land. I have attributed only very little weight to these lines of argument. The resulting view might be foreshortened for a very few, but it would not be reduced to the extent of being unacceptable as an outlook, let alone oppressive, and no-one has the right to an uninterrupted view. As for house prices, this is not a planning matter.
73. Summarising on the environmental dimension, primarily due to difficulties over pedestrian access, this falls well short of a positive sustainable outcome.

Other matters

74. The Appellants submitted a signed s.106 Unilateral Undertaking, which covers contributions towards education, open space, including management, an outdoor sports contribution, a contribution towards the provision of waste bins and money towards a Traffic Regulation Order. The Council assured the hearing that the obligations meet the tests set out in the current CIL Regulation 122 and are otherwise CIL compliant and that the '5-rule' since 2010, implemented by way of Regulation 123 in April 2015, had not been exceeded.
75. As for the contributions, the only one in contention is that towards the provision of waste bins. Had I been minded to allow the appeal, I would not have supported this. I agree with the Appellants that this is something that should be provided by the Council Tax payments by residents. There was certainly no CS policy or any supplementary planning guidance advanced to support the Council's position.
76. A set of draft conditions was submitted and a discussion took place at the inquiry. With some minor amendments to accord with the guidance in the PPG, these would be sensible had I allowed the appeal and granted planning permission. However, they do not overcome the matters in objection to the appeal scheme that have led to my conclusion.

Overall planning balance

77. The starting point must be to consider the appeal scheme's conformity with the DP. In a strict application of the LP, it is not allocated for housing and, as such, would not comply. However, the recently adopted CS looks for a minimum of 500 new houses in Bromyard, with land in the area of the appeal site being in the favoured location. In fact, as CS Policy BY2 looks for at least half the Hardwick Bank strategic site to be developed beyond the Plan period to 2031, more sites in Bromyard must be found. Coupled with the shortfall in the 5-year supply of available housing land, there is significant benefit in releasing this site for both market and affordable housing.
78. On the negative side of the equation, we have the harm to the landscape in both character and visual terms. However, following a detailed assessment I agree with the Appellants that the harm would not be determinative. This is for four key reasons. First, the harm would be relatively localised. Secondly, the new building just the east of the appeal site has seriously eroded the

approach to Bromyard and thirdly, the distant views are filtered and relatively limited in the wider landscape panorama. Finally, access to the Hardwick Bank site would advance the entrance to the Town further to the west to incorporate much of the appeal site

79. The compelling reason for resisting the proposal is the problems with access. Without reasonable prospect of providing a safe and convenient pedestrian access to the site, it would not be practical to allow the means of access to be withdrawn at this stage. Consequently, the access proposed in the application must be the default position and this would be unacceptable having regard to the potential for conflict with the access to serve the strategic housing site at Hardwick Bank.
80. Thus, despite the significant benefits in terms of housing provision and some social and economic benefits, the proposal cannot be judged sustainable in the terms given in the Framework. Importantly, the harm caused would be sufficient, cumulatively, to significantly and demonstrably outweigh the benefits of the appeal scheme taken as a whole.

Formal decision

81. Having regard to the evidence presented to the inquiry, the written representations and visits to the appeal site and surroundings, I have found that, notwithstanding the HLS position, the adverse impacts of the appeal scheme would not accord with the DP and Framework policies referred to above and, thereby, significantly and demonstrably outweigh the benefits of the appeal scheme, when looked at against the Framework as a whole. Accordingly, and having taken into account all other matters raised, I conclude, on balance, that the appeal should fail.

J S Nixon

Inspector

DOCUMENTS HANDED IN AT THE HEARING

- Document 1 - Attendance List (not included)
- Document 2 – Opening form Herefordshire Council
- Document 3 – Opening statement by Gladman
- Document 4 – Inquiry note on Wheatcroft
- Document 5 – Correspondence from Bovis Homes re Hardwick Bank
- Document 6 – Distances to amenities north of A44
- Document 7 – Appeal decision re housing at Ledbury Ref: 3009456
- Document 8 – Plan showing location of amenities
- Document 9 – Extract from Green Infrastructure Strategy
- Document 10 – E-mail exchange re land for footway along A44
- Document 11 – Note re education contribution necessary
- Document 12 – Update on 5-year housing land supply
- Document 13 – Plans showing extent of adopted highway
- Document 14 - Plan showing location of land in same ownership
- Document 15 – Note on surface water drainage
- Document 16 – Plan and note showing education catchment
- Document 17 – CIL compliance note
- Document 18 – Bus timetables
- Document 19 – Draft conditions
- Document 20 – Plan showing location and layout of roundabout access
- Document 21 – Note on SHLAA Historic Landscape sensitivity scale
- Document 22 – Plan showing contours
- Document 23 – Plans showing extent of adopted highway and available footway widths
- Document 24 – Bromyard inset map Core Strategy 2007
- Document 25 – Correspondence from Bovis Homes re Hardwick Bank access
- Document 26 – Note re Hardwick Bank access
- Document 27 – Plans showing new development and landtake
- Document 28 – Herefordshire LTP 2016-2031 extract
- Document 29 – Herefordshire LTP 2013/4-2015/16 extract
- Document 30 – Notification of change of procedure from hearing to inquiry

Document 31 – Plan showing pedestrian access submitted by 3rd party

Document 32 – Agricultural land classification

Document 33 – Signed Unilateral Undertaking

Document 34 – Extract from National Travel Survey England 2014

Document 35 – Closing statement from Herefordshire Council

Document 36 – Closing statement by Gladman

Richborough Estates