



Appeal Decisions

Inquiry held on 30 November 2016, 1 December 2016 and 3-5 & 9 October 2017

Site visits made on 1 December 2016, 16 January 2017 and 9 October 2017

by Robert Parker BSc (Hons) Dip TP MRTPI

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

Decision date: 27 December 2017

Appeal A Ref: APP/J1860/W/15/3139770

Land at Martley Road, Lower Broadheath

- 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 RCA Regeneration Ltd against the decision of Malvern Hills District Council.
 - The application Ref 15/00649/OUT, dated 26 May 2015, was refused by notice dated 2 December 2015.
 - The development proposed is 39 no. dwellings.
-

Appeal B Ref: APP/J1860/W/17/3177665

Land at Martley Road, Lower Broadheath

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by RCA Regeneration Ltd against the decision of Malvern Hills District Council.
 - The application Ref 16/00137, is dated 6 January 2015.
 - The development proposed is outline application for up to 29 no. dwellings.
-

Decisions

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Procedural Matters

3. The Inquiry into Appeal A opened in November 2016 but was adjourned after two days. During the adjournment Appeal B was lodged and the two cases were conjoined.
4. The applications are submitted in outline with access for consideration at this stage. Layout plans have been supplied for both. Whilst these are illustrative, they provide a clear indication of how the site might be laid out, were planning permission to be granted for either proposal. They are by no means definitive but are a reasonable basis on which to assess the impacts.
5. Appeal A was submitted for non-determination concurrently with the Council issuing a decision. The parties agreed that I should deal with the appeal as if permission had been refused. Since that time the South Worcestershire Development Plan (DP) has been adopted. My determination of these appeals is made against the policies contained within that document.

6. In relation to Appeal B, the Council has supplied putative reasons for refusal. The first is substantively similar to the refusal reason for Appeal A concerning the effect on open countryside and the Significant Gap between Lower Broadheath and Worcester City. However, there are additional putative reasons relating to the quantum of development, affordable housing and biodiversity.
7. The Council withdrew its biodiversity concerns following receipt of additional information. Furthermore, signed unilateral undertakings supplied in relation to both appeals would secure 40% of the permitted numbers of dwellings as affordable housing. The Council confirmed at the Inquiry that this would address the requirements of DP Policy SWDP15. An earlier unilateral undertaking dated 23 February 2016 is the subject of a deed of release and therefore has no bearing on my decisions.
8. The Community Infrastructure Levy (CIL) was adopted in May 2017, with the charge coming into effect on 5 June 2017. This means that the contributions towards public transport, education and recreation infrastructure – discussed at the first sitting of the Inquiry in the context of a draft unilateral undertaking – no longer need to be secured by means of a planning obligation.
9. I made a number of site visits in relation to these cases. The first accompanied visit in connection with Appeal A was hampered by the setting sun and therefore I repeated the exercise unaccompanied in better lighting conditions. With the agreement of the parties, the post Inquiry site visit was unaccompanied.

Main Issues

10. The main issues common to both cases are:
 - a) the effect of the development on the countryside and the landscape setting of the village of Lower Broadheath;
 - b) the extent to which the proposal would impact upon the Significant Gap;
 - c) whether the development would make adequate provision for Green Infrastructure;
 - d) whether the Council can demonstrate a five-year supply of deliverable housing sites; and
 - e) whether, having regard to my conclusions on the above issues, and in light of development plan policies, national policy and other material considerations, the proposal would be a sustainable form of development.

Reasons

Principle of housing

11. DP Policy SWDP2 identifies Lower Broadheath as a Category 1 village. Settlements in this tier of the hierarchy contain a range of local services and facilities, making them suitable to accommodate market and affordable housing. The Council raises no objection to the principle of new housing in Lower Broadheath. Indeed, I note that it has made a number of residential allocations in the DP, with a scheme of approximately 48 dwellings having been recently completed on land north of Bell Lane.

12. The appeal site lies immediately outside the development boundary. It is therefore within open countryside for the purposes of interpreting planning policy. DP Policy SWDP2 places strict controls over development in the open countryside. So far as residential development is concerned, this is limited to dwellings for rural workers, replacement dwellings and rural exception sites. Both appeal schemes would contain a significant element of market housing and this brings them into conflict with Criterion C of DP Policy SWDP2. This is not disputed.

Countryside and Landscape Setting

13. The appeal site is 1.75 ha in extent and roughly L-shaped, with a frontage onto the B4204 Martley Road between Heath Villa and Hopton Cottage. The site wraps around the rear of residential properties facing onto Martley Road. Its southern corner is slightly elevated above the road but the land falls away to a low point in the centre, before rising again to the north-western boundary. This boundary is contiguous with a public footpath which runs from Martley Road near The Bell Inn out into the countryside in the direction of Hallow.
14. Roughly in the middle of the site, to the rear of Heath Villa, is a collection of polytunnels and glasshouses which form part of Heath Nurseries. Some of these structures appeared underused at the time of my visit and from what I saw the commercial activity is fairly low key, but there is signage on Martley Road to indicate a retail element to the business.
15. The pattern of development in Lower Broadheath was originally linear along Martley Road, but the settlement has become more nucleated as a result of late twentieth century house building off Hallow Lane, Church Lane and Peachley Lane. The historic grain is more evident at the southern end of the village, where properties front the road. There is no significant development in depth to the south of Bell Lane and this gives the area its own distinctive character.
16. Heath Villa is the last in a continuous row of houses on the left-hand side of Martley Road when heading out of the village towards Worcester. The site creates a physical break in the built form at this point, facilitating views into open countryside. Travelling further on, Martley Road is flanked by a more sporadic and loose knit ribbon of housing and has an altogether more rural feel.

Appeal A

17. The illustrative layout for Appeal A shows residential development across the whole of the site, served by a new vehicular access adjacent to Heath Villa. The scheme would present a frontage onto Martley Road, which the appellant argued would be consistent with the existing built form. However, the proposal would result in the loss of the attractive countryside views which are important in linking the village to its setting. For this reason, the development would have a significant adverse effect on the rural character of this part of the village.
18. The southern portion of the development would be particularly prominent from the public footpaths which cross the fields between the site and Lovington Lane to the east. From here it would read as an extension of the built form into the countryside and a harmful consolidation of the informal pattern of ribbon development at this end of the settlement.
19. The remainder of the site, to the rear of the properties along Martley Road, is better contained by existing trees along the boundaries. This area does not have

the same character as the fields to the east of the site and I agree with the appellant that it has an ordinary quality. Nonetheless, the land is predominantly undeveloped and it acts as an important buffer between the housing on Martley Road and the surrounding countryside.

20. The rising nature of this section of land is such that, from vantage points to the south and east, the new houses would project above the trees and vegetation along the boundary. The appellant argued strongly that housing along Martley Road is already visible. However, these are generally filtered views, with the main built-up area of Lower Broadheath largely hidden. The proposal would create an urban edge to the village which would be at odds with the softer and more rural interface which presently exists.
21. Full regard should be had to the fact that this is an outline application. A condition could be used to stipulate maximum ridge heights and there would be the opportunity at reserved matters stage to adjust the layout and secure the retention and reinforcement of existing boundary planting. However, in my opinion these measures would not adequately mitigate for the harmful effects of an estate-type residential development on the countryside and landscape setting of Lower Broadheath.
22. I acknowledge that the proposal would replace the glasshouses and polytunnels. Although these structures have a run-down appearance, they are modest in scale and inconspicuously located in the lowest part of the site. Furthermore, they are concentrated on a small part of the overall site area – the majority of the land is devoid of buildings. The appeal scheme would involve a higher density of built development and the dwellings would be more substantial in height and mass. This means that they would have a greater visual impact compared to the present situation.
23. The proposal would go beyond infill or the 'rounding off' of the southern tip of the village – as has been suggested. Rather, it would constitute a harmful encroachment of built form into the countryside, beyond the development boundary. This would be contrary to DP Policy SWDP2 and also SWDP25 insofar as it seeks to protect the landscape resource.

Appeal B

24. The illustrative layout for Appeal B restricts the housing to the northern part of the site. The landscape impacts would be less adverse than with the larger scheme but the proposal would still read as an intrusion into the countryside. Moreover, the lack of a street frontage onto Martley Road would create an incongruous and visually isolated form of backland development which is not characteristic of the settlement pattern local to the site. That development in depth occurs elsewhere in the village does not change my view on this point. Neither does the potential for a link to the centre of the village via the footpath along the north-western boundary.
25. Although the intention is to leave the southern portion of the site clear of buildings, there would be a requirement for a new road to provide access. This would have an urbanising effect on this parcel of land and would erode its rural character.
26. The indicative plan also shows the construction of an attenuation pond on this part of the site. Based on evidence presented to the Inquiry I am content that

this would be a technically feasible drainage solution. However, the pond would take up a significant portion of land and its steep manmade banks would make it an alien feature. I appreciate that public views from outside of the site would be limited, and that there would be some scope for planting, but there would nevertheless be a detrimental effect on landscape character.

27. I accept that the harm could be overcome by relocating the pond to the Council's preferred position in the northern part of the site, as per the layout for Appeal A. This could be secured by planning condition. However, this solution would not satisfactorily address my concerns regarding the visual impacts of the scheme as a whole. I therefore conclude that Appeal B would have an unacceptable adverse effect on the countryside and landscape setting of Lower Broadheath, contrary to DP Policies SWDP2 and SWDP25.

Significant Gap

28. The appeal site lies within an area designated in the DP as a Significant Gap between Lower Broadheath and Worcester City. DP Policy SWDP2 states at Criterion D that development proposals should ensure the retention of the open character of the Significant Gaps. This policy construction does not expressly preclude development. It simply requires the decision-maker to exercise judgement as to the effect of the proposal on the openness of the Significant Gap.
29. The reasoned justification explains that the purpose of Significant Gaps is to provide additional protection to open land that may be subject to development pressures. The designation helps to maintain a clear separation between smaller settlements and urban areas in order to retain their individual identity. The text identifies a number of types of development which may be acceptable in Significant Gaps, including reuse of rural buildings, agricultural and forestry-related development, playing fields, other open land uses and minor domestic extensions. New-build dwellings do not feature on this list.
30. The Significant Gap is a well-established policy tool which has been carried forward from earlier local plans. It is not a landscape policy and the focus is upon openness. This concept is not defined within the DP but there are strong parallels with Green Belt policy where openness is generally understood to be an absence of buildings or development. There is a visual dimension to openness in terms of whether or not the proposed development would be visible, but that is not the only consideration.
31. It is common ground that both appeal schemes would permanently and irreversibly reduce the openness of the site. However, in order to address compliance with DP Policy SWDP2 it is necessary to look wider to the effect on the Significant Gap designation.
32. The current distance between the built-up parts of Lower Broadheath and Worcester is agreed to be in the order of 1.7 km. This will reduce to around 965 m once the Worcester West urban extension is completed. The distance may be greater, depending upon the location of the Green Infrastructure (GI) in that scheme. It has been suggested that the urban extension is demonstrative of the fact that some development can be accommodated within the Significant Gap. However, the implications of this strategic allocation for the open character of the gap will have been explored as part of a plan-led process. If anything, the planned expansion of the City westwards reinforces the need to ensure physical

separation between Worcester and its smaller neighbour. Whilst it might be argued, as in these particular cases, that individual proposals would have limited effect on the Significant Gap, the piecemeal erosion of the gap over time would undermine its purpose.

Appeal A

33. Appeal A would, by introducing dwellings onto the southern portion of the site, reduce the distance between main built-up parts of the settlements by somewhere in the order of 80 m. It is contended that this would be impossible for casual observers to appreciate due to the local topography which prevents intervisibility between the appeal site and Worcester. However, this is not a decisive factor, not least because it is an argument that could be repeated often.
34. The essential characteristic of the Significant Gap is its openness and this would be materially harmed by the physical extension of the built-up area beyond the extremities of existing development in the direction of Worcester. That there are already buildings within the Significant Gap, including a factory and a loose scattering of housing along Martley Road at the entry to the village, does not provide justification for additional development.
35. In conclusion, Appeal A would have a material adverse effect on the open character of the Significant Gap, contrary to DP Policy SWDP2.

Appeal B

36. The built development for Appeal B would be located behind existing residential properties along Martley Road. It would extend no closer to Worcester than Heath Villa, which marks the south-easternmost extremity of the main built-up part of the village. Whilst there would be some diminution to the open character of the Significant Gap the scheme would not be perceived as narrowing the gap between Worcester and Lower Broadheath. In my view, it would not compromise the strategic objective of maintaining separation between settlements.
37. I therefore conclude that Appeal B would not conflict with DP Policy SWDP2 in relation to the effect on the Significant Gap.

Green Infrastructure

38. DP Policy SWDP5 expects housing proposals to contribute towards the provision, maintenance, improvement and connectivity of GI. For greenfield sites exceeding 1 ha (gross) the requirement is 40% GI. According to the policy supporting text, this can fulfil multiple roles, including flood mitigation.
39. Although the policy was not cited on the decision notice for Appeal A it was raised in the Council's evidence for the Inquiry. GI also formed the basis for a putative reason for refusal in relation to Appeal B. Notwithstanding the inconsistency in approach, the matter is before me in connection with both proposals and I must consider it.

Appeal A

40. The appellant conceded at the Inquiry that the 39-unit scheme does not make the appropriate provision for GI. Whilst I appreciate the illustrative nature of the layout plan, there is nothing to persuade me that compliance would be possible with this quantum of residential development on the site. I therefore

conclude that Appeal A would be incapable of making satisfactory provision for GI in accordance with DP Policy SWDP5.

Appeal B

41. The 29-unit scheme would also be deficient, but not to the same degree. The appellant has presented an annotated version of the illustrative plan which shows GI provision of 38.7%. In my opinion, there is a realistic probability that policy compliance could be achieved with adjustments to the layout. The relocation of the attenuation pond to the northern portion of the site would assist in this regard. Consequently, the GI issue does not weigh against Appeal B.

The supply of housing land

42. The National Planning Policy Framework (the Framework) requires authorities to identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements with an additional buffer of 5% or 20% (moved forward from later in the plan period) to ensure choice and competition in the market for land. The parties are agreed that a buffer of 5% should be added in this case. Given the conclusions of the examining Inspector for the DP, and the annual completion rates published within the Council's latest Five Year Land Supply Report¹, I consider that this is the appropriate buffer to apply.
43. It is common ground that the starting point against which to measure the housing supply position is the figure of 5,650. This is the DP housing requirement for the Malvern Hills Sub-Area (i.e. excluding the Wider Worcester Area) for the period 2006 to 2030. After accounting for completions, dwellings under construction, previous under-supply and the Framework paragraph 47 buffer, the agreed five-year housing requirement is 1,341 dwellings.
44. The Council's position at the Inquiry, in line with its latest published position was that it could demonstrate approximately 6.7 years land supply as at 1 April 2017. This was challenged on the basis that the authority's assessment of supply was overly optimistic. On the appellant's detailed site-by-site analysis the supply is more in the order of 4.3 years.
45. The parties devised a joint schedule of disputed sites and this was explored by means of a round table discussion at the Inquiry. The appellant conceded a number of sites (totalling 23 units) during this process in light of more up-to-date information which has come forward regarding particular sites. Taking into account the discussions and arithmetic errors in the Council's rebuttal evidence, the number of dwellings in dispute is approximately 700.
46. My starting point for consideration of this issue is the Framework. This advises that:
- "To be considered deliverable, sites should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years and in particular that development of the site is viable. Sites with planning permission should be considered deliverable until permission expires, unless there is clear evidence that schemes will not be implemented within five years, for example they will not

¹ Published July 2017

be viable, there is no longer a demand for the type of units or sites have long term phasing plans.”

Framework, page 12, footnote 11

47. The evidence presented to the Inquiry demonstrates that the land supply position within Malvern Hills is heavily dependent upon a number of small and medium sized sites. It is always difficult in such circumstances to make accurate predictions as to the deliverability of schemes. Assessment of land supply is not a precise science and involves an element of judgement as to whether individual sites are likely to be built-out within the relevant five year period.
48. Of the disputed sites, three do not yet have planning permission. Their inclusion within the Council’s supply figure is on the basis of a resolution to grant planning permission. Land at Walshes Farm (Ref. 16/00816) has multiple landowners who have no intention or ability to build out the site. Whilst I am told that the S106 agreement will be signed once the site is sold, there is nothing in the Council’s evidence to persuade me that this is likely to happen, or that reserved matters approval will be achieved in time to deliver any units within the five years. I have therefore deducted 26 units from the supply.
49. The Pheasant Inn (Ref. 16/01203) is also an outline application which is awaiting completion of a S106 agreement. I am told that legal work is well advanced but there are substantial S106 and demolition/refurbishment costs which cast doubt on the viability of the scheme, particularly in light of CIL adoption, and its attractiveness to potential developers. The uncertainties involved in selling the site convince me that 14 units should be discounted for the purpose of the land supply calculation.
50. Land at Welland Road (Ref. 16/00402) is pending a S106 agreement but despite advice from the case officer that this is capable of being completed relatively quickly there is no evidence to reassure me that viability issues surrounding housing mix have been addressed. I cannot be confident that agreement will be reached and therefore it is premature to include these 43 units within the Council’s supply.
51. The remainder of the disputed sites have planning permission. The default position, as set out in the Framework, is that such sites should be included in the supply unless there is clear evidence that they will not deliver. The appellant draws my attention to the lack of progress on various sites and provides Land Registry documentation to illustrate the fact that some are yet to be acquired by developers. Other sites, such as Land at Mill Lane (Ref. 13/01095) and Land off Eastward Road (Ref. 13/01587), are making slow progress towards reserved matters approval.
52. The Planning Practice Guidance² indicates that where a site is controlled by a developer or the landowner has expressed an intention to either develop or sell, the decision-maker can have a greater degree of confidence in concluding that a site is deliverable. However, it does not say that a site should be excluded because of the absence of developer involvement. Thus on the evidence presented, I am not minded to discount the above sites from the supply.
53. To my mind, it is unrealistic to expect the high degree of probability which is being sought by the appellant in relation to sites with planning permission. The

² Reference ID: 3-020-20140306

Council has factored uncertainty into its assessment by discounting delivery for the early years and assuming conservative build-out rates. In many cases, smaller sites would be capable of being delivered in years 4 and 5, but where larger sites are involved the Council has pushed some units into later years and discounted them from the five-year supply.

54. Where there is some evidence to indicate that permissions will expire prior to implementation, those sites will be covered by the lapse rate. The 5% lapse rate is based upon historic data from Malvern Hills and was accepted as being robust by the examining Inspector into the DP. I have no reason to take a different view. Neither do I take any issue with the Council's approach towards windfalls, which account for 70 units in the supply. The appellant does not dispute this aspect of the calculation.
55. It has been suggested that the Council's supply figure will inevitably include sites where planning permission ends up being renewed. This may be due to lack of progress, or because the landowner is not yet ready to release the land for development. Whilst I have no doubt that certain sites will fall into this category they are impossible to quantify based on the limited evidence before me.
56. At the Inquiry the appellant contended that one of the main brakes on housing delivery within the district is the lack of housebuilders willing to take on small to medium sized sites. Whilst I have no reason to dispute this information, which is obviously based upon a detailed working knowledge of the local housing market, the availability or otherwise of suitable developers is a factor which is outside the Council's control and should not be punitive when it comes to determining whether there is a five-year supply of sites. In any case, it does not appear to have affected completion rates, with delivery over the past three years exceeding target levels.
57. On the whole, and with the exception of the sites for which planning permission does not yet exist, the Council's approach is a sound one. Taking into account my deductions on those sites awaiting planning permission, and applying the lapse rate and windfall allowance, the total supply figure for 1 April 2017 was in the order of 1,712 dwellings. Even making a modest allowance for sites where permission is renewed, there would be a sufficient supply of dwellings to meet the five-year requirement. I therefore conclude that, in line with the requirement of Framework paragraph 47, the local planning authority can show a five-year supply of deliverable housing land. I shall determine the appeals on that basis.

Other material considerations

58. The appellant advised the Inquiry that a housing developer is lined up to acquire the Martley Road site should either of the appeals be successful. I have no reason to believe that this information is incorrect. However, given the claimed shortage of developers willing to take on small to medium sized sites within the local housing market there can be no guarantee that the appeal site will not be developed at the expense of another site within the Council's supply. Therefore I cannot be certain that the proposals would boost the supply of housing in the short term. This tempers the weight to be attached to the benefits of housing delivery, albeit it is still a matter of considerable importance in light of the Government imperative to boost housing supply.
59. The Council is on course to deliver its affordable housing target set out within DP Policy SWDP3 / Table 4b(i). Despite this, the latest Strategic Housing Market

Assessment identifies a pressing need for affordable housing, over and above that which is provided for within the development plan. Lower Broadheath continues to be a popular location for bidders within the Council's choice-based lettings system, which is suggestive of high demand. Appeal A would deliver a total of 16 affordable units whereas Appeal B would provide up to 12. This benefit carries significant weight in favour of the proposals, notwithstanding the recent provision of 19 affordable units as part of the Bell Lane scheme.

60. My attention is drawn to the "sustainable location" of the site close to the facilities available in Lower Broadheath and Worcester City. This is not disputed. However, given the small proportion of the district covered by Significant Gaps it is inevitable that there will be alternative sites outside of the designation with similar accessibility attributes. The location is a positive factor carrying some weight in the overall balance but it does not, on its own, justify a departure from development plan policy.
61. Planning permission was granted in 2007 for a development of 7 affordable dwellings on the southern portion of the site. That permission was never implemented and has now expired. The full background to the case is not before me, but I understand that it was a rural exceptions scheme permitted under an earlier policy framework. Given the difference in circumstances and the lack of a fallback position, limited weight can be attached to the site's planning history.
62. The existing operator of the horticultural nursery wishes to retire. It was argued that a future purchaser of the site would wish to increase profitability by carrying out additional development – for example to improve the retail offer. I have not been supplied with any details of these proposals which may themselves require permission. It is therefore impossible to draw reliable comparisons with the visual impact of the appeal schemes. In the absence of any substantive information I cannot be certain of there being a real prospect of nursery-related development taking place in the event of one or both appeals being dismissed. It seems to me that the fallback position is no greater than theoretical and therefore I have attached it limited weight.
63. It is contended that the developments would bring biodiversity gains. I agree that there is some potential for wildlife enhancement, but it would be premature to ascribe positive weight to this factor, particularly in the absence of any firm proposals for landscaping and GI. Likewise, an absence of harm in respect of other planning interests is neutral in the overall planning balance.

Whether sustainable development and planning balance

64. The starting point for my consideration of these appeals is the development plan. S38(6) of the Planning and Compulsory Purchase Act 2004 stipulates that planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise. The Framework states at paragraph 17 that planning should be genuinely plan-led. The development plan in this case is recently adopted and its policies have been found to be sound and compliant with the Framework.
65. The local planning authority can demonstrate a five-year supply of deliverable housing land and as such the tilted balance within paragraph 14 of the Framework is not engaged. Both appeal proposals would be contrary to DP Policy SWDP2 due to the location of the site outside of the development boundary. Both would conflict with the development plan by reason of their adverse effects on

the countryside and landscape setting of the village. There would be additional policy conflict in the case of Appeal A by reason of the harm to the open character of the Significant Gap and the inability to make adequate provision for GI. These matters bring the schemes into conflict with the development plan read as a whole and therefore in each appeal case a grant of planning permission could only be justified by other material considerations.

66. Central to the appellant's argument is that the proposals represent sustainable development and such development should not be precluded, even with a five-year supply of deliverable housing sites in existence.

Appeal A

67. The 39-unit scheme in Appeal A would bring social benefits in terms of delivering more housing in a location which is reasonably accessible to services and facilities. The provision of 16 much needed affordable homes is also a matter attracting significant positive weight. Furthermore, there would be economic gains to the construction industry during the development phase and thereafter to local businesses through additional spending by new residents.
68. Set against these benefits, I must balance the environmental harm arising from the encroachment of development into the Significant Gap and the countryside setting of the village. The failure to comply with the development plan in respect of these matters and in relation to its policies for development in the countryside and GI is a factor weighing heavily against a grant of planning permission.
69. Paragraph 8 of the Framework states that the three sustainability roles should not be undertaken in isolation, because they are mutually dependent. To achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously. In this instance, the environmental harm identified above would clearly outweigh the social and economic benefits. This leads me to conclude that the proposal is not sustainable development.

Appeal B

70. The development being proposed under Appeal B would deliver fewer market and affordable dwellings and the social and economic benefits flowing from this would be proportionately less. The environmental harm would be of lesser magnitude, principally due to the reduced quantum of development and land area being built upon. However, that does not mean to say that the harm would be insignificant. On the contrary, in my opinion it would be sufficient to outweigh the benefits and as such the scheme would not constitute sustainable development.

Planning Obligations

71. As I set out earlier, S106 unilateral undertakings have been submitted in relation to each appeal. These would secure the affordable housing as part of the respective developments. I have no reason to find that the terms of the planning obligation would not accord with the requirements of Regulation 122 of the CIL Regulations. However, given that I have reached the conclusion that the appeals should be dismissed there is no need for me to consider the detail of the obligations. I have already factored the benefits of affordable housing delivery into the planning balance.

Other matters

72. I have been provided with a number of other appeal decisions by the parties in this case. Of the cases focused upon at the Inquiry, all but one was determined in the absence of a five-year housing land supply. It is rarely the case that appeal decisions elsewhere will be directly comparable to the development under consideration, particularly where judgement is required on site specific matters relating to character and appearance and the impact on Significant Gaps. Moreover, the planning balance is unique to each case, dependent upon the factors in play and the weight attached to each. I have determined the appeals before me on the basis of the evidence presented and on their own merits.

Conclusion

73. Neither proposal would constitute sustainable development. Both schemes would conflict with the development plan as a whole and, notwithstanding the considerable weight attached to the benefits of housing delivery and affordable housing, there are no material considerations that justify a departure from adopted planning policy.

74. For the reasons given above, and having regard to all other matters raised, I conclude that the appeals should be dismissed.

Robert Parker

INSPECTOR

Richborough Estates

APPEARANCES

FOR THE APPELLANT:

Miss Celina Colquhoun of Counsel Instructed by RCA Regeneration Ltd

She called

Miss Sian Griffiths BSc (Hons) Director, RCA Regeneration Ltd
DipTP MScRealEst MRTPI MRICS

Mr Nigel Wakefield BA (Hons) Managing Director, Node Urban Design Ltd
BTP/DIP LA DIP/MA UD MRTPI

Mr Nick Moore MEng CEng MICE Associate Director, THDA Ltd Consulting
Engineers

FOR THE LOCAL PLANNING AUTHORITY:

Miss Sarah Clover of Counsel Instructed by Ian Marshall, Head of Legal
Services

She called

Mr Nicholas Harman Illman Young Landscape Design

Mr Neil Pearce Avon Planning Services Ltd

Mr Timothy Roberts DLP Planning Ltd

INTERESTED PERSONS:

Mr Jon Hickton North Oak Homes Ltd (appellant's client)

Mr Fred Davies Policy Manager, Wychavon District Council

Mrs Heather Hardy Local resident

Mr David Aitchison Local resident

Mrs Stephanie Aitchison Local resident

Mrs Jeannette Taylor Local resident

DOCUMENTS SUBMITTED AT THE INQUIRY

First sitting

1. Opening submissions
2. Representations for the 29-unit scheme
3. Draft unilateral undertaking

Second sitting

4. Opening submissions
5. Consultation response from Worcestershire County Council in its capacity as Lead Local Flood Authority (dated 8 September 2017)
6. Extract (p 489) from CIRIA SuDS Manual 2015
7. Email from Richard Parsons of Wolverley Homes dated 5 October 2017
8. Suggested additional conditions for discussion
9. Updated Compliance Statement – Planning Obligations
10. Closing submissions
11. Council’s response to appeal decisions cited by the appellant
12. Appellant’s response to the above submission (received after Inquiry closed)

Richborough Estates