
Appeal Decision

Inquiry opened on 18 November 2014

Site visit made on 27 November 2014

by Clive Hughes BA (Hons) MA DMS MRTPI

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

Decision date: 9 February 2015

Appeal Ref: APP/H1840/A/14/2215896

**Land between Springfield Lane and Averill Close, Broadway,
Worcestershire**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr David Bent, Redrow Homes Midlands against the decision of Wychavon District Council.
 - The application Ref W/13/01671/PN, dated 1 August 2013, was refused by notice dated 28 February 2014.
 - The development proposed is erection of 70 dwellings incorporating vehicular access from Averill Close, earthworks to facilitate surface water and foul water drainage, landscaping, car parking and other ancillary and enabling works.
 - The inquiry sat for 8 days on 18 to 21 and 25 to 28 November 2014.
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Decision

1. The appeal is dismissed.

Procedural matters

2. By email dated 20 October 2014 the Council advised that it was no longer relying on its 3rd reason for refusal which relates to highway matters as this issue had been resolved following negotiations between the Council and the appellant. A revised plan, Drawing No SL.01 Rev L, was submitted with the appeal. It shows the internal site layout to be amended by the junction radius increased in front of plot 66; the road geometry and radius eased in front of plot 32; the turning head lengthened in front of plot 22 and adjusted in front of plot 27; and minor kerb alterations outside plots 4-8, 10, 18-26, 28-32 and 62-65. These are minor alterations within the site that have no impact outside it. The Council supports them and I am satisfied that no interested parties would be prejudiced by my determining this appeal based upon this amended layout. I have therefore used it for this Decision.
3. A signed and dated Agreement under s106 of the Act was submitted during the Inquiry. It was signed by Wychavon District Council, Redrow Homes Ltd, Broadway Properties Ltd, Louise Francesca Briscoe and Worcestershire County Council. It makes provision for 28 of the units to be affordable housing dwellings and for various financial contributions. The Council confirmed that this Agreement overcomes the 4th reason for refusal and I have taken it into consideration in this Decision.

Main issues

4. The site lies within the Cotswold Area of Outstanding Natural Beauty (AONB). The main outstanding issues are:
- Whether the Council can demonstrate a 5 year housing land supply and the implications for this on local and national planning policy;
 - Whether the proposed development comprises major development in the AONB and, if so, whether there are exceptional circumstances and whether the development would be in the public interest;
 - The effect of the proposed development upon the landscape and scenic beauty of the AONB; and
 - The effect of the proposed development upon the setting of the adjoining heritage asset, namely the Broadway Conservation Area.

Reasons

Background

5. The appeal site is situated about 0.5km to the north of the centre of Broadway, a village located within the AONB. It lies outside but adjacent to the settlement boundary for Broadway as defined on Inset Map 62a of the *Wychavon District Local Plan 2006* (LP). Due to the irregular shape of the settlement, both the western and part of the eastern boundaries of the appeal site abut the settlement boundary.
6. The site is flat, broadly rectangular and has an area of 2.36ha. It abuts the rear gardens of dwellings in Springfield Lane and is separated from the gardens of properties in Averill Close by a public footpath. The site is laid to grass; there are fields to the north and south. There are hedgerows along some of the boundaries and a fence to the south. Adjacent to the Springfield Lane gardens there are fences, hedges and trees. The hedges include intermittent trees; the hedge adjacent to the public footpath is particularly strong.
7. The public footpath to the east runs south to Gordon Close from where it is a short walk to the shops and other businesses within the centre of Broadway. To the north the footpath runs into open countryside. It is a rural footpath without surfacing or lighting and is quite enclosed by hedges before it enters the open countryside. Adjacent to the appeal site the footpath splits with the second footpath heading south east into the village.
8. The land to the west, including properties facing Springfield Lane, lies within the Broadway Conservation Area. This was designated in November 1969 and has been subsequently extended in 1990 and 2006.
9. The parcel of land immediately to the south of the appeal site, which is in separate ownership, is a small field that would provide a gap of about 45m between the appeal site and the houses in Gordon Close.
10. Broadway is classified as a Category 1 village, the most sustainable village category, in the emerging *South Worcestershire Development Plan* (SWDP), which is a joint local plan that is being progressed by this Council and two of its neighbours, Worcester City Council (WCC) and Malvern Hills District Council (MHDC). The village is very well served with a wide range of shops and

services including hotels/ public houses, a post office, pharmacy, opticians, banks, estate agents, coffee shops and many retail shops. There is a Budgens supermarket off Back Lane about 0.6km (on foot) south of the appeal site. The distance by car is rather longer. The village also supports the Broadway First School and St Mary's Catholic Primary School.

The proposals

11. The scheme involves creating a new vehicular access from Averill Close to the north east of the site and the construction of 70 dwellings. These would be a mix of detached, semi detached and terraced houses with 2 to 5 bedrooms each and a block of 9 one and two bedroom flats. Twenty eight of the units (40%) would be affordable dwellings; the location, disposition, mix and quantum of the affordable dwellings have been agreed with the Council. The scheme involves two areas of on-site public open space in addition to the financial contribution towards off-site provision. The proposals include 122 off-street car parking spaces.

Whether the Council can demonstrate a 5-year housing land supply

Background

12. The Government's overarching objective, as set out in the *National Planning Policy Framework* (the Framework), is to boost significantly the supply of housing. As one of its core planning principles the Framework identifies that planning should be genuinely plan-led; it says that plans should be kept up to date and be based upon joint working and co-operation to address larger than local issues. Paragraph 47 sets out what local planning authorities should do to achieve the objective, including providing a 5-year supply of deliverable sites for housing. Due to persistent under delivery in Wychavon it is common ground that the Council needs to also provide an additional buffer of 20% to ensure choice and competition in the market for land.
13. The issue here is whether the Council can demonstrate a 5-year supply of deliverable housing land (plus 20%). If not then LP policy GD1 would be out of date and paragraph 49 of the Framework would be engaged. It is accepted that the calculations are tight; in effect the difference between the parties boiled down to whether the correct figure for the objectively assessed need (OAN) for the District is 9950 or 10600 dwellings for the period 2006-2030 and the likelihood of some specific sites coming forward in the initial 5 year period. The other OAN figure put forward at the Inquiry, 11500, can be discounted as it formed part of a sensitivity test.

Requirement

14. The current position is that the SWDP has been submitted for Examination and two sessions have already been held. The Examining Inspector issued his *Initial Interim Conclusions* on 28 October 2013 and *Further Interim Conclusions* on 31 March 2014. These set out OAN figures for the three councils. There may need to be some degree of redistribution between the three councils due to WCC being tightly constrained and the amount of protected land including AONB within MHDC. The needs of WCC are to be met, in part, by sites within the Wider Worcester Area (WWA) which includes land in Wychavon. For the purposes of calculating the 9950 or 10600 OAN figures, however, it is common ground that these sites are not included.

15. The recommendations of the SWDP Examining Inspector are very clear. In paragraph 61 of his *Further Interim Conclusions* he recommends that the "...Councils adopt the figures ... as representing the full, objectively-assessed need for housing over the Plan period, and as the basis for making provision for housing in the Plan ...". The figure he cites for Wychavon is 9950 dwellings, excluding any WWA provision. The Council has relied upon this figure.
16. The appellants have had greater regard to the SWDP *Housing Background Paper (Provision and supply)* October 2014 as this Paper provides a joint response to the Inspector's *Further Interim Conclusions* from the Councils. The emerging Plan proposes that part (620 dwellings) of the MHDC requirement be provided in Wychavon together with a further 30 dwellings arising from the rounding up of the OAN for South Worcestershire. Adding these to the Inspector's recommended 9950 dwellings gives the total of for Wychavon of 10600 (excluding the WWA). This is set out in Table 9 of the above Paper and gives a revised figure for Wychavon of 10600.
17. I have had regard to the appellants' contentions regarding the use of the figure of 10600 as this has come about as a response to the Inspector's concerns about the soundness of the emerging Plan. Due to the way the figure has emerged and due to the fact that the Councils are putting it forward as Proposed Modification 9 (PM9) in the above Paper, this higher figure has some force. The question is whether it carries greater weight, at this stage, than the figure put forward by the Inspector.
18. While the higher figure undoubtedly is an indication of the Councils' current thinking and one possible direction of travel, there is no certainty that it will be the final figure. This depends to some extent upon the success or otherwise of other sites within MHDC and the wider housing market area that are being promoted. The Inspector has not considered any figure for Wychavon in excess of the 9950 that he put forward; no higher figure has been tested.
19. The Examining Inspector has identified the full OAN for Wychavon and put this in his *Further Interim Conclusions*. This figure, and the way it has been arrived at, is described as the "policy off" figure. The Local Plan process has not yet advanced far enough for a "policy on" figure to have evolved. In any case what is at issue here is not whether Wychavon can meet its OAN; the issue is whether land in Wychavon should be used to overcome a constraint within a neighbouring authority. This can only be properly tested through a plan-led approach and not through an appeal concerning an individual site. The on-going Examination is the proper place for such a redistribution of need to be assessed. For these reasons I conclude that for the purposes of this appeal the appropriate OAN figure for Wychavon is 9950.

Supply

20. Tables 1 and 2 of Document 14 show the areas of agreement and the differences between the parties concerning housing land supply. Some figures were agreed, in particular the number of completions during 2006 -2014; the allowance for windfalls; the number of dwellings under construction; a lapse rate of 5%; and the need for a 20% buffer due to previous persistent under delivery. The cited figures are all for 31 March 2014. If the OAN figure of 9950 is used (415 dwellings per year) then the Council considers that it has a 5-year housing land supply (5.5 years) whereas the appellants argue that the supply is 4.65 years. This difference is due to the supply figures (3490 for the

Council; 2947 for the appellants). The Council's figure was reduced by 5 dwellings during the Inquiry.

21. If the figure of 10600 were to be used (442 dwellings per year) then on the Council's own figures the supply is less than 5 years (4.86 years) compared to the appellants' figure of 4.10 years. Again the difference is due to the figure for the total supply. As even with the lower OAN figure of 9950 the appellants argue that the Council cannot demonstrate a robust 5-year housing land supply, it is necessary to examine the supply figures in some detail.
22. In summary, the difference between the parties is 543 dwellings on the supply side. This is derived from differences in calculations in respect of planning permissions not started on 1 April 2014 (324 dwellings); deliverable sites in the SWDP (215); and sites carried forward from the Local Plan (33). Due to the difference in the supply figures there is also a difference in the figure derived from the 5% lapse rate (-29). $[(324 + 215 + 33) - 29 = 543]$
23. With regard to planning permissions not started, there are differences concerning three specific sites and the contribution that can be made by small sites. The three sites are Leedons Residential Park; Stonepit Lane, Inkbarrow; and Copcut Lane. Concerning Leedons Residential Park, this is a mobile home park close to Broadway. On the site 20 units are under construction and so are discounted from the supply figure. The position is that 68 plinths have been installed on site and there has been recent substantial investment by the owners, including new leisure spa facilities. Evidence produced by the appellants shows that the site is being marketed, albeit that it is aimed at a particular sector in the market. Further evidence shows that 35 units were completed in 2012-13 and 14 in 2013-14. While only 4 units have been ordered, with a further 4 on order, so far in 2014-15, this represents a 6-month figure rather than for the full year. Given the marketing and the investment in facilities it seems unlikely that 12 will be the final figure for the full 12 months (taking account of the 20 under construction). In view of the fact that 49 units were completed in 2012-14 and the increased level of facilities and marketing, the Council's estimate of 100 (80+20) units over 5 years seems more likely than the appellants' figure of 60 (40+20).
24. At Stonepit Lane there is an extant planning permission and the site has been acquired by Bovis. Reserved matters have been approved and it is being marketed for release in 2015, although this may just be testing the water. A fresh planning application for a revised mix of units has been submitted; there is no certainty concerning the outcome of this application but there remains a planning permission in place. None of this suggests that the developers have lost interest in the site or do not wish to develop it in the short term. I have seen no evidence to demonstrate that the planning permission is unviable; the email from Bovis gives no explanation of their reasoning and may be part of their aspirations to vary the mix. In the light of this I see no reason to reduce the Council's figure of 100 units within 5 years.
25. At Copcut Lane the site has outline planning permission for 740 dwellings of which 100 will comprise an extra care facility. Reserved matters approval has been granted for 281 dwellings including the 100 extra care units; an application to discharge conditions was submitted in October 2014. The issues between the parties relate to the provision of the extra care units and the rate of delivery of houses. There is no evidence that the extra care facility is being

marketed and William Davies are not involved in that part of the market. However, there is still time for that part of the development to be sold to a specialist provider and be built out within the period so it should remain in the supply. The difference between the parties in respect of the dwellings concerns the rate of build. The figure of 25 dwellings is agreed for year 2, in the following three years the Council say 56 dwellings per year and the appellants say 39 per year. This gives a total difference of 51 dwellings.

26. William Davies are not a major national housebuilder and completions at a rate of 56 per year would be well above their annual average for other sites (39 according to the appellants). The Council's higher figure is based upon William Davies saying that there would be 3 developers each completing up to 33 dwellings per year. The Council then used a completion rate a little over half that suggested rate. Given that the Council's evidence is from the housebuilder, I have no evidence to show that the completion rate of 56 dwellings per year in the final 3 years is unrealistic.
27. Concerning the small sites there is already an agreed lapse rate of 5% in the calculations. All the sites listed in Table 5 of Appendix 1 of Timothy Roberts' *Supplementary Proof of Evidence* were explained in detail at the Inquiry; one site for 5 units was discounted as the planning permission lapsed in March 2014. The appellants argued that 33 of these units should be discounted, in addition to the 5% lapse rate, largely on the basis that sites had not yet come forward and had been the subject of planning applications to renew them. However, for the purposes of footnote 11 to paragraph 47 of the Framework, and in the absence of any site specific reasons for not counting them, these sites must be considered to be deliverable and so included in the supply.
28. The Council's figure for the supply of sites from these sources therefore appears sound and so all 2006 identified dwellings should count towards the 5-year housing land supply.
29. The second category in which the Council's position on supply was challenged relates to the sites allocated in the emerging SWDP. Two of these sites were subject to specific challenge while the objection to the others was due to their status as having only been the subject of confidential pre-application discussions. With regard to the specific sites, Wyre Road, to the north of Pershore, is split into two separate sites each of which have been the subject of outline planning applications. Site A was, at the time of the Inquiry, due to be reported back to Committee with a resolution to approve subject to the completion of a s106 Agreement. However, there is no certainty that this will be agreed by members and this may affect the timing of any development. I consider that Council's projection of 8 completions in year 3 and 56 in each of the following two years to be unduly optimistic and that the timescale may well slip by up to a year to allow for the remaining issues on the planning application to be resolved.
30. Site B has the benefit of a recent (August 2014) outline planning permission for 64 dwellings and there seems to be a reasonable prospect that all 64 units would be completed in the period. I acknowledge that the land is in the ownership of commercial companies who are not housebuilders, but the timescale is such that the land could be marketed and the dwellings completed in well under 5 years.

31. The second specific site concerns land at Leamington Road, Broadway. The main reason for the appellants objecting to the inclusion of this site relates to the level of objections made by local interest groups. The Council rightly pointed out that the application the subject of this appeal was subject to a similar level of objection. While a planning application for residential development was refused by the Council, this related to a much larger site. There seems to be no reason as to why a revised scheme, confined to the allocated site, would not be able to be approved and constructed in the period.
32. The objections to the inclusion of the other sites all related to the alleged lack of transparency in their allocation. The Council stated that all these sites had been the subject of pre-application discussions which must remain confidential. The appellants did not contest the need for discussions to be confidential but their understandable concerns related to the impossibility of their being able to test the deliverability of the sites. This seems to me to be a justified concern and significantly decreases the robustness of this part of the supply. The disputed element of this part of the supply comprises a total of 57 dwellings.
33. The final contested element of supply comprises two sites carried forward from the LP. That plan was adopted in 2006, before the recession. The Garage site at High Street, Pershore, is currently in use for car sales and a hand car wash and seems to be available for development. There have been pre-application discussions with McCarthy & Stone for a 48 unit retirement development while the LP allocation is for just 20 units. I am not aware of any constraints on redeveloping the site and see no reason to exclude it from the supply.
34. The garage court, also in Pershore, is to be developed by Rooftop, a RSL, who have stated an intention of developing the site in 2018-19. The Council has experience of this RSL who have previously developed sites in accordance with a stated timetable. While there must be some uncertainty as many factors can change over time, there appears to be no reason for not including this site.
35. Overall, therefore, in terms of the supply of deliverable sites I am satisfied that all except 113 dwellings can reasonably be included in the 5-year housing land supply. Of the 113 dwellings, 56 are due to an overly optimistic assessment of the position at Wyre Road. The other 57 dwellings relate to sites where there have been confidential discussions with the Council so this evidence cannot be tested and so the figure cannot reasonably be described as being robust. If the full 113 dwellings are removed, the supply would be 3377 dwellings.

Conclusions

36. The OAN for Wychavon for the Plan period 2006-2030 is 9950 dwellings. This translates into 415 dwellings per year. To this must be added the under supply from the period 2006-2014 which is an agreed figure of 567 dwellings. A further 20% needs to be added due to persistent under supply, giving a total of 3170 dwellings. It is common ground that this is the correct calculation if the OAN is 9950.
37. I calculate a reasonable supply figure to be 3377 dwellings which represents a surplus of 207 dwellings. The Council can therefore demonstrate more than a 5-year housing land supply (5.3 years) including a buffer of 20%. Saved policy GD1 of the Local Plan therefore carries full weight. This policy says that most new development to 2011 will be accommodated within the main built up areas of Droitwich Spa, Evesham and Pershore with some in the villages. It adds

that in all cases it will be within defined development boundaries and/ or on allocated sites. The appeal site lies outside the development boundary for Broadway and so would be contrary to this saved policy.

Whether the proposed development comprises major development in the AONB

38. Paragraph 116 of the Framework says that planning permission should be refused for major developments in AONBs except in exceptional circumstances and where it can be demonstrated they are in the public interest. The Framework does not define major development. Paragraph 8-005 of the Natural Environment chapter of the *Planning Policy Guidance* says that whether a proposed development should be treated as a major development will be a matter for the relevant decision taker, taking into account the proposal in question and the local context.
39. I agree with the Inspector's report in the Handcross¹ case who agreed with judicial opinion that "major" should take in its natural meaning; the Secretary of State also agreed with that Inspector. In this case the Council appeared to have based its conclusions on the basis of the cumulative increase in the number of dwellings in Broadway since 2011. I am not convinced there is any justification for using a cumulative approach; on this basis a single additional dwelling could be considered to be major development. My understanding of the Government advice is that each development should be considered on its own, taking account of the proposal and the local context.
40. I have had regard to the appellants' contentions in respect of the quantity of land lost from the AONB, the impact on the village and the amount of new development. Concerning the quantity of land lost, the site has an area of 2.36ha. However, the proposals must be seen in the context that they would physically form a link between the housing at Averill Close and the gardens of properties fronting Springfield Lane. This would result in the areas of land immediately to the south and to the south east of the appeal site becoming completely surrounded by built development. These remaining fields would become "landlocked" by development, mostly housing, and they would visually no longer remain part of the open countryside. While the impact on the village would be largely limited to nearby residents and to users of the public footpaths to the east of the site, the development would also be visible in longer views from the surrounding countryside. The outward spread of the village would not be limited to the appeal site as, visually, the enclosing of other fields by built form would increase the visual impact of the proposals on the village.
41. Concerning the amount of new development, I have had regard to the table produced by the appellants in which various developments in AONBs were considered. However, none of the cited examples exactly replicates the position at Broadway. The closest match was at Bourton on the Water where the Inspector considered that an additional 100 dwellings in a settlement of 1702 dwellings (5.88% increase) was major development. I have had particular regard to the scale of the development proposed, the scale of the existing settlement (using both the appellants' and the Council's figures) and the nature of the settlement.

¹ APP/D3830/A/13/2198213 & 2198214

42. Using the appellants' figures, the erection of 70 dwellings represents an increase of 4.96% in the number of dwellings in Broadway. While Broadway is identified as a Category 1 village and boasts a very significant number of shops and businesses, the context is nonetheless that of the periphery of a village in the AONB. In this context I have no doubt that the proposed 70 dwellings can reasonably be concluded to be major development in the AONB.

The effect of the proposed development on the landscape and scenic beauty of the AONB

43. S85 of the *Countryside and Rights of Way Act 2000* places a statutory duty on all relevant authorities to have regard to the purpose of conserving and enhancing natural beauty when discharging any function in relation to, or affecting land within, AONBs. This is reiterated in the *Cotswolds AONB Management Plan 2013-2018* as a statutory purpose of the Conservation Board. Paragraph 115 of the Framework says that great weight should be given to conserving landscape and scenic beauty in AONBs which, along with National Parks and the Broads, have the highest status of protection in relation to landscape and scenic beauty.
44. This does not, of course, preclude development but it is a material consideration of great weight. The AONB is clearly a valued landscape for the purposes of paragraph 109 of the Framework but neither this, nor footnote 9 to paragraph 14, rules out development as a matter of principle.
45. The proposed development would have local and more distant impacts on the landscape and the scenic beauty of the AONB. The local impact would, to a large extent, be confined to public views by users of the public footpaths that run to the east of the site. One of these footpaths runs all along the eastern boundary while the other joins it towards the north of the site. The path then heads north into the open countryside.
46. The impact on users of these paths would be twofold. Firstly would be the visual impact of the development including the loss of an open field. The second impact concerns the northern spread of the village and the resultant enclosure of the fields to the south and south east of the site with built development. Concerning the visual impact, there is a thick hedge that extends for much of the eastern boundary of the site which would reduce views into the site, especially when the hedge was in leaf. There are gaps, however, including field gates and the proposed openings for the road access and a pedestrian access into the site.
47. Four of the proposed houses, on Plots 1, 58, 59 and 70, would be sited close to the footpath such that they would be very clearly visible above the hedge. Three of these houses would be even more clearly visible through openings in the hedge and their proximity to the path would be harmful to the views of walkers. The impact would be greater than that of the existing houses in Averill Close to the east due to their proximity and lack of screening. The Averill Close dwellings are generally quite well screened by hedges and trees such that their presence is more discernible due to the domestic nature of the planting rather than due to the built form. I agree with the conclusions in the *Landscape and Visual Impact Assessment* (LVIA, September 2014), both in terms of the magnitude of change and the overall significance, that the effect on views from the public footpath would be high adverse.

48. The road access would be a seriously urbanising feature on the footpath as it would need to cross the carriageway, two footways and a verge. In this regard I do not agree with the conclusions in the LVIA that the effect in viewpoint 3 would be medium adverse as the viewer would be looking directly into the site down the access road with the new dwellings on Plots 3 and 4 in the direct line of sight; the effect would high adverse even in the long term.
49. There would be further harm arising from the enclosure of the land to the south of the site. As the development would form a link between the dwellings in Averill Close and Springfield Lane, it would have the effect of detaching the fields to the south from the countryside. The Council described the appeal site and these fields as forming part of a green wedge or tongue that brings the countryside close to the heart of the village. While there is no policy support for the protection of such areas, due to the predominantly linear nature of the village they are clearly a feature that helps to give Broadway its identity. Enclosing the land to the north of the village in this way would block views from the south into the countryside resulting in some landscape harm. It would fail to either conserve or enhance the natural beauty of the AONB.
50. In medium distance views, which are only really achievable from the north, the proposals would have little to no effect. There are no views of the site from the historic heart of Broadway. There would be limited glimpses of the proposed development from Springfield Lane between the existing houses. This effect is more relevant to considerations of the effect on the setting of the Conservation Area and I have noted that these views are not considered in the LVIA.
51. There are longer views of Broadway from the Cotswold escarpment which forms a horseshoe of higher ground to the south west, south and east. The principal parties agreed a key set of viewpoints. I saw that the appeal site, together with the land immediately to the south and south east, is clearly discernible in some of these longer views. Depending upon the elevation of the views, the site is seen as part of a green enclave within the built form of the village or as part of a green wedge extending into the village from the countryside. However, in none of the views would the development dominate the view. From the east, in particular, there would be some adverse effect and in these longer views I generally agree with the conclusions set out in the LVIA. The viewpoint at photograph 19, for example, would experience a medium adverse effect, but it needs to be seen in the context that this is an isolated view and that for much of this footpath the site cannot be seen at all.
52. I have taken into account the proposed landscaping and the intended landscape management plan. This would have the effect of filtering some of the views of the development. However, it would have only a limited impact on the shorter views where the harm would be greatest. Overall I conclude on this issue that the development would fail to conserve or enhance the landscape or natural beauty of the AONB. In accordance with advice in the Framework this carries great weight against the development. It would also be contrary to the development plan and in particular to saved LP policies ENV1, ENV2 and SUR2.
53. Having concluded that the proposals comprise major development in the AONB and that they would fail to conserve or enhance the landscape or natural beauty of the AONB, it will be necessary to assess the development in accordance with the advice in paragraph 116 of the Framework.

The effect of the proposed development on the setting of Broadway Conservation Area

54. The appeal site abuts the rear gardens of dwellings on the eastern side of Springfield Lane. The eastern edge of this part of the Broadway Conservation Area runs along this common boundary. The site is also visible in views looking north from within the Conservation Area and there are views across the site from Springfield Lane itself. The Conservation Area is substantial and comprises the historic core of the village, including historically important open spaces, as well as more recent development such as Springfield Lane. The Conservation Area boundary is drawn tightly along the rear of properties on the northern side of the High Street while to the south it also encloses open land to the rear of the frontage properties. It also runs north along either side of Springfield Lane and south along Snowhill Road. Following a period of public consultation, the *Broadway Conservation Area Appraisal* (BCAA) was adopted by the Council as a document for planning purposes in March 2006.
55. The reasons for refusal relate to the impact of the proposals on the setting of the Conservation Area. The reasons refer to the loss of part of a green wedge between the Conservation Area and Averill Close properties; the effect on the established pattern of development within the Conservation Area; and the design and scale of the scheme.
56. The principal parties agree that there would be some less than substantial harm to the significance of the Conservation Area; the issue is one of the degree of harm. Paragraph 134 of the Framework says that where a development will lead to less than substantial harm to the significance of the designated heritage asset, the harm should be weighed against the public benefits of the proposal.
57. With regard to the loss of part of a green wedge, this is a finger of agricultural land that runs between the houses in Springfield Lane and Averill Close as far as the rear of sites in Back Lane. The BCAA refers to the effect of modern development on the setting of the north side of the village and the fact that it has taken up much of the former fields and orchards that once flanked this side of the village. It adds that only occasional fields and fragments of orchards survive; those that remain are a valuable buffer between the historic core of the village and its modern expansion.
58. The proposals would link the modern development in Averill Close with the 1950s development in Springfield Lane. This would enclose a significant area to the north of the village with built development, removing part of the historic link between the Conservation Area and its agricultural hinterland. This would result in some limited harm to the setting of the Conservation Area.
59. Concerning Springfield Lane, the BCAA refers to the glimpses between the buildings into gardens and the countryside, which contribute to this part of the Conservation Area having a semi-rural quality. The BCAA identifies three such views; one is to the south of the appeal site and so would not be affected while a second, the view between Rose Garth and Midsummer, would only clip the southern edge of the proposed development and so not be significantly harmed. The buildings would be likely to be visible in the third, most northerly view, but due to the distance back from the road and the set back of the closest house from the common boundary, the visual impact would be limited.

60. There would be likely to be some other glimpses of new dwellings between the houses. These would have a slightly urbanising effect on the views and the character of the Lane, but no significant views of the hills beyond would be affected. The impact of this on the setting of the Conservation Area would again be limited.
61. The pattern of development also contributes to the significance of the heritage asset. As set out above, Broadway is relatively linear in form. This is particularly true of the Conservation Area which is centred around north/ south and east/ west axes. On Springfield Lane the linear pattern is maintained although it appears to be markedly different to the High Street, for example, as it has spaces between the houses which allow views of the hills beyond, and the buildings are set back from the road. On the western side the set back is less regular but the general pattern is maintained.
62. The proposals broadly maintain this linear pattern with the new road from Averill Close running due west and its two spurs running due south. The layout of the houses roughly follows this pattern with grassed verges replicating those in the High Street. The BCAA says that green grass verges are present throughout the Area. While the houses on the western side of the road closest to Springfield Lane do not have such a regular pattern, this is in keeping with the development on the western side of Springfield Lane. While the layout does not really replicate the generally linear form of development within the Conservation Area, the site is outside the Area and it is sufficiently in keeping for there to be no significant harm to the setting of the Area.
63. The scale and design of buildings in the Conservation Area also contribute to its significance. The second reason for refusal describes the design of the proposed dwellings as being of a standardised "anywhere" design that would be alien to the vernacular designs present in the Conservation Area. I consider this to be an excessively harsh criticism of the design. It fails to take account of the fact that the houses in Springfield Lane mostly date from the 1950s and that the site needs to also relate to the more modern houses within Averill Close to the east, through which it would be accessed. Concerning Springfield Lane, the BCAA says that, with the exception of Luggers Hall and buildings at the northern end of the Lane (which are away from the site) the quality of this part of the Conservation Area comes from the composition of the buildings set back in generous gardens rather than particular merits of individual buildings.
64. A condition could be imposed to enable the Council to approve the final details of the proposed dwellings as any changes would be likely to involve fine tuning rather than any major redesign. Subject to various minor amendments, the design of the proposed dwellings would be sufficiently in keeping with the appearance of the Conservation Area for there to be no unacceptable harm.
65. Concerning scale, the houses close to the boundary with the Conservation Area would be the larger 4- and 5-bed detached dwellings which would be in keeping with the scale of nearby houses. The only 3 storey element would be centrally located within the site. From the front, from where they would be most visible from the public footpath and across the proposed public open space, the upper floor would be within the roof space. It would only be in glimpsed views between the proposed houses on Plots 27 and 28 that it would appear as a full three storey building. In any case, while storey heights are generally lower away from the village centre, there are 3 storey houses in Gordon Close which

lie a short distance to the south of the site. The scale of the dwellings would not be harmful to the setting of the Conservation Area.

66. Overall, I agree that there would be some limited harm to the setting of the Conservation Area. This would be contrary to saved policy ENV12 of the Local Plan. However, and as agreed by the Council in cross examination, this policy only carries limited weight as it is not in full accordance with the Framework. The identified harm would be limited, certainly less than substantial, and so in accordance with advice in the Framework it needs to be weighed against the public benefits of the proposals.

Contributions

67. The appellants submitted a signed and dated Agreement under s106 of the Act. It makes provision for 28 (40%) of the dwellings to be affordable housing units and for financial contributions in respect of cycling, education, the County transport strategy, off-site built sports facilities, off-site formal sports, on-site public open space, recycling, bus shelters and community and leisure facilities. It is common ground that the Agreement overcomes the Council's final reason for refusal. There is no dispute between the parties that these contributions are necessary and are directly, fairly and reasonably related in scale and kind to the proposed development. They accord with section 122 of the *Community Infrastructure Regulations 2011* and with paragraph 204 of the Framework. The Agreement, in providing for 28 units of affordable housing, is clearly beneficial as there are 31 households currently registered who have both a preference and a current address in Broadway. There are a further 20 households in a similar position in nearby parishes. These benefits need to be weighed in favour of the development.

Other benefits arising from the proposed development

68. In addition to the benefits arising from the s106 Agreement, the scheme also gives rise to other benefits. In particular, the new housing, both market and affordable, is of considerable importance as the vast majority of the approved new homes to be provided in Broadway comprise mobile homes at Leedons Residential Park. Such homes only appeal to a limited proportion of the population, do not provide any affordable housing or contribute towards infrastructure. The marketing indicates that they are not suitable for young families with children. The census demonstrates that the age of the population of Broadway is well above the District average and the provision of new housing, including affordable housing, could help reduce this age imbalance in the local population.
69. The proposed new housing would also bring economic benefits for businesses in Broadway. The site is in a sustainable location within walking distance of the many shops and other businesses in Broadway, including a supermarket. It has ready access to public transport; there are bus stops within walking distance and the proposals would secure improvements to them. Other economic benefits would include construction jobs, the likelihood of local expenditure and Council tax receipts. These weigh in favour of the proposals.

Balancing exercise and overall conclusions

70. The proposed development is in conflict with the development plan. In particular there is conflict with LP policy GD1 relating to development outside

settlement boundaries. There is further conflict with policies in that plan that seek to protect the countryside/ AONB (policies ENV1, ENV2 and SUR2) and due to the harm to the setting of the Conservation Area (policy ENV12), although not all these policies carry full weight. The Framework says that great weight should be given to conserving landscape and scenic beauty in AONBs. It also says that the less than substantial harm to the setting of the Conservation Area needs to be weighed against the public benefits of the proposal.

71. I have had regard to the fact that the Council can currently demonstrate a 5-year housing land supply within the terms of paragraph 49 of the Framework. While that alone would not justify dismissing this appeal, it is a material consideration of some weight. I acknowledge that the figure for housing need has to be viewed with a degree of caution due to the possibility of the figure changing to accommodate need from elsewhere within the housing market area during the continuing examination of the emerging SWDP.
72. The proposals constitute major development in the AONB and that it is common ground that there is some less than substantial harm to the setting of the Conservation Area. In respect of the AONB, the Framework says that in such areas planning permission should be refused for major development except in exceptional circumstances and where it can be demonstrated they are in the public interest. The Framework sets out those matters that should be assessed in any consideration of applications for major development in the AONB. In this case, the proposed development would have some benefits for the local economy. However, this benefit is outweighed by the Council's ability to demonstrate that the need for additional housing can be met elsewhere and due to the detrimental effect on the environment and the landscape.
73. The other material considerations that weigh in favour of the development include the provision of affordable housing; widening the scope of new housing available in Broadway; economic benefits for local businesses including jobs during construction; infrastructure benefits through the s106 Agreement; and increased Council tax revenues. These public benefits weigh against the harm to the AONB and the harm to the setting of the Conservation Area.
74. I have taken into account all the other matters raised at the Inquiry and in the written representations. I am satisfied that the highway safety issue can be satisfactorily overcome by the amended plan submitted with the appeal. Overall, however, the proposed development would be contrary to the development plan; there would be harm to the landscape and scenic beauty of the AONB, to which the Framework advises that great weight should be given; and some less than substantial harm to the setting of the Conservation Area. Taken together, this amounts to a considerable degree of harm and I conclude that it is not outweighed by the other material considerations advanced in support of the development. I do not consider that the identified harm can be overcome by the imposition of conditions and so I dismiss this appeal.

Clive Hughes

Inspector

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Peter Goatley of Counsel	Instructed by Ian Marshall, Solicitor to Wychavon District Council
He called	
Eileen Marshall BSc (Hons) DipLA MA MCIHort	Landscape Officer, Wychavon District Council
James Burgin BA DipDBE MRTPI	Heritage Manager, Wychavon District Council
Fred Davies MRTPI	Policy Manager, Housing and Planning Services Department, Wychavon District Council
Timothy Roberts BA (Hons) MRTPI	DLP Planning Ltd
Heather Pearson MRTPI	Principal Planner, Housing and Planning Services Department, Wychavon District Council

FOR THE APPELLANT:

Mary Cook of Counsel	Instructed by Kathryn Ventham, Barton Willmore LLP
She called	
Peter Morgan BA Arch (Hons) Dipl Arch RIBA	Managing Director, Thrive Architects Ltd
Scott Pearce BA (Hons) PG Dip MArborA	Director, First Environment Consultants Ltd
Jason Clemons BA (Hons) DipUD MA MSc MRTPI IHBC	Director and Head of Historic Buildings, CgMs Ltd
Kathryn Ventham BSc (Hons) MSc MRTPI	Planning Partner, Barton Willmore LLP

INTERESTED PERSONS:

Malcolm Watt MRTPI MLI FAA	Cotswold Conservation Board
Graham Love FRICS	Representing Broadway Parish Council, Broadway Trust, Springfield Lane Association & Save Broadway Campaign

DOCUMENTS SUBMITTED AT THE INQUIRY

- 1 Order of appearances - appellant
- 2 Order of appearances – Wychavon District Council
- 3 Draft list of planning conditions
- 4 Photographs for Statement of Common Ground (and plan showing location of photographs)
- 5 List of agreed plans for Statement of Common Ground (CD12.2 should read revision “L”)
- 6 Opening submissions on behalf of the appellant
- 7 Opening submissions on behalf of the Local Planning Authority

- 8 Draft s106 Agreement
- 9 Statement of Common Ground
- 10 Statement on behalf of the Cotswolds Conservation Board
- 11 Housing Background Paper Addendum October 2014 (SWDP)
- 12 Planning decision notice – Land to the rear of and including 28 Stonepit Lane, Inkbarrow
- 13 Statement by Graham Love on behalf of Broadway Parish Council and others
- 14 Updated housing land supply tables
- 15 Kathryn Ventham Housing Land Supply commentary table
- 16 Proposed tree planting plan – Scott Pearce
- 17 Proposed tree planting plan – larger specimen trees – Scott Pearce
- 18 Screenshot from Leedons Park website
- 19 Screenshot from marketing website for Leedons Park (outandaboutlive)
- 20 Screenshot from marketing website for Leedons Park (ukparks)
- 21 Signed s106 Agreement dated 28 November 2014
- 22 Agreed list of Planning Conditions
- 23 Closing submissions on behalf of the Local Planning Authority
- 24 Wainhomes (South West) Holdings Ltd v SoS CLG [2013] EWHC 597 (Admin)
- 25 Closing submissions on behalf of the appellant

Richborough Estates