



Appeal Decision

Inquiry held on 8, 9, 10 December 2015

Site visit made on 10 December 2015

by Christina Downes BSc DipTP MRTPI

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

Decision date: 14 January 2016

Appeal Ref: APP/H1840/W/15/3008340

Land off Worcester Road, Drakes Broughton, Worcestershire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Gladman Developments Ltd against the decision of Wychavon District Council.
 - The application Ref W/14/01611/OU, dated 24 July 2014, was refused by notice dated 28 January 2015.
 - The development proposed is development of up to 120 dwellings with associated access.
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Decision

1. The appeal is allowed and planning permission is granted for development of up to 110 dwellings, including 40% affordable housing, structural planting and landscaping, informal open space, children's play area, surface water attenuation, a vehicular access point from Worcester Road and associated ancillary works on Land off Worcester Road, Drakes Broughton, in accordance with the terms of the application, Ref W/14/01611/OU, dated 24 July 2014, subject to the conditions in the Schedule at the end of the decision.

Procedural Matters

2. The application was made in outline form with all matters apart from access reserved for future consideration.
 3. A second application was made for an outline scheme on the same site and this was also refused planning permission by the District Council. The proposal was for a smaller development of up to 110 dwellings and also included 0.3 ha of land for the expansion of St Barnabus C of E First and Middle School. This land adjoins the common boundary with the school and, as a consequence, the main access into the site would be slightly further to the west. In addition there would be 10 age-restricted bungalows as part of the affordable housing offer.
 4. The second application was subject to full consultation with local people and consultees. The Appellant requested that my decision is based on this second proposal. After careful consideration I am satisfied that the nature of the scheme would not be materially different and that there would be no prejudice to any third party. The District Council raised no objections and consequently my determination will be on the basis of the plans and description of the second application. For the avoidance of doubt, the plans that I will consider
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are Drawing Nos 5412/LP001A; C14029/004; 5412/ASP3G. An amended description was agreed by the parties¹.

5. Following the close of the Inquiry, the District Council published the representations to the main modifications of the South Worcestershire Development Plan (SWDP). The parties were invited to comment but no further responses were made.

Preliminary Matters

6. The Appellant did not disagree that the District Council can demonstrate a five year supply of deliverable sites against a requirement that is based on an up-to-date assessment of full objectively assessed housing need (FOAN). Furthermore, there was no dispute that this included the appropriate backlog as well as a 20% buffer to ensure choice and competition in the market for land in accordance with Paragraph 47 of the National Planning Policy Framework (the Framework). On the basis of a requirement of 9,950 dwellings, the District Council contend that there is a 6.82 year supply². The Appellant did not produce any evidence to challenge these figures, which provide the best available evidence.
7. The Drakes Broughton with Wadborough & Pirton Neighbourhood Plan is still at conceptual stage and no policy document exists at present. In the circumstances it cannot have weight in the determination of this appeal.

Reasons

Planning policy context

8. The starting point in the consideration of any planning proposal is the development plan. In this case the relevant statutory document is the Wychavon District Local Plan (LP), which was adopted in 2006. A great deal of Inquiry time was spent considering whether relevant policies of this plan were still current. This does not depend on the age of the plan but rather the extent to which its policies are consistent with those in the Framework.
9. Saved Policy GD1 addresses locational strategy and indicates that most new development will be accommodated in the three main towns. This is in accordance with sustainable principles whereby homes, employment and other uses are directed to places where there is the best infrastructure, facilities and services to support them. The policy does though also recognise that a proportion of this development should go to villages, in order to maintain the vitality of rural communities. It would be difficult to argue that these basic principles are other than in accordance with the Framework.
10. The policy refers to a sequential preference for the re-use of brownfield land, although it was confirmed at the Inquiry that there is no specific target for such land use. It is acknowledged that the Framework does not seek to prioritise brownfield over greenfield sites but it does encourage the effective use of previously developed land. In any event, the policy refers to the sequential preference being exercised in the towns. In this case the appeal site is

¹ See Inquiry Document 8.

² This is a "policy off" figure, which it is correct to use in this case because the emerging SWDP has not yet been adopted.

greenfield land adjacent to Drakes Broughton village, so the question of whether this aspect of the policy is still current is not of critical importance.

11. The crux of the matter seems to me to relate to the settlement boundary itself and whether it has a pertinent role to play in the context of this appeal. There is nothing in the Framework to suggest that settlement boundaries are inappropriate in principle as a tool to direct development to sustainable locations and protect countryside resources. Indeed they are employed in the emerging SWDP in draft Policy SWDP 2 (as proposed to be modified) and there is no evidence that the Local Plan Inspector had any concerns about their use. The Appellant does not consider the requirement in the policy to "safeguard" the open countryside accords with the Framework. However, this part of draft Policy SWDP 2 has not been modified and so is unlikely to be changed.
12. Saved Policy GD1 addresses development requirements up to 2011. The settlement boundaries were drawn up in the totally different planning context of the Regional Strategy and County Structure Plan, which have now been revoked. Saved Policy GD1 was not intended to deal with development needs after 2011. However, that does not mean that its principles should necessarily be discarded. It is quite clear that in order to meet housing requirements the District Council will have to rely on greenfield land outside the currently established settlement boundaries. Indeed that is illustrated in Drakes Broughton itself where a housing allocation has been made to the south of Worcester Road. There are also other sites around the village where permission has been granted on land beyond the settlement limits.
13. The emerging SWDP is at an advanced stage in the adoption process, although the main modifications have been subject to representations and these have yet to be considered by the Inspector in his final Report. In the circumstances, I afford the emerging SWDP moderate weight. The emerging SWDP makes clear that the development boundaries are intended to be changed on the Policies Map only insofar as they will accommodate allocated sites. For Drakes Broughton the western edge of the settlement is not intended to change because the appeal site is not one that is relied on by the District Council in order to deliver its housing land supply.
14. It is the case that draft Policy SWDP 3 (as proposed to be modified) does allow for an element of housing to come forward as windfalls. However these are only to be applied during the last two years of the five year trajectory and involve small sites, to avoid double counting. Most would be small scale developments within the built up areas. Whilst some may involve greenfield land, they would be spread across the District and would be likely to be relatively insignificant in terms of their impact on settlement boundaries.
15. Policy GD1 is a saved statutory policy and as well as directing development to the most sustainable locations, it seeks to safeguard countryside resources from unwarranted development. This seems to me to be fully square with Framework policies, including the core planning principles. Whilst the Framework does not seek the protection of the countryside for its own sake, it nevertheless recognises its intrinsic character and beauty. Saved Policy GD1 is, in my judgement, up-to-date for the purposes of this appeal. There was no dispute that any of the other relevant policies, including Policy GD2 relating to the principles of sustainable development and Policy COM2 concerning affordable housing, are other than consistent with Framework policy.

16. The parties referred to a number of appeal decisions relevant to the issue of settlement boundaries. In July 2014 the Secretary of State granted outline planning permission for residential development at Pulley Lane, Droitwich Spa. The Secretary of State agreed with the Inspector that saved Policy GD1 was not up-to-date. This was considered in the context of the District Council not being able to demonstrate a five year housing land supply but the Inspector also dealt with the alternative scenario of such a supply being in place. Nevertheless, it seems to me that much of the reasoning was on the basis that the policy did not address current housing needs and was thus time expired. My colleague referred to the Saving Letter for the LP, which was dated 2009 and said that the saved policies should be replaced "promptly". This had not happened and, indeed, still has not happened. The Inspector also considered the weight to be attributed to saved Policy GD1 in terms of its consistency with the Framework. He commented that the Framework heralded a step-change towards the delivery of housing. That is agreed, but it is unclear why my colleague thought that this rendered the settlement boundaries out-of-date in their entirety.
17. It is relevant to note that in most appeal decisions made after Pulley Lane, including a very recent one concerning land at Worcestershire Hunt Kennels, Kennels Lane, Fernhill Heath³, other Inspectors have concluded that saved Policy GD1 is not out-of-date. Many have noted that the District Council has worked hard to address past housing shortfalls and identify sufficient land to meet its FOAN. However this does not mean that sustainable developments should be turned away. The presumption in its favour applies whether or not a five year supply of housing land can be demonstrated.
18. In this case the LP is not absent or silent in terms of the matters relevant to this appeal and its policies are not out-of-date. The appeal proposal therefore falls to be determined in accordance with the relevant saved policies in the LP, unless material considerations indicate otherwise. There is no dispute that it conflicts with saved Policy GD1 as it involves development in the countryside outside the settlement boundary of Drakes Broughton.

Effect on the health, social and cultural wellbeing of the community of Drake's Broughton

19. Policy SWDP 2 (as proposed to be modified) in the emerging SWDP sets out the development strategy and settlement hierarchy for the South Worcestershire area. This carries forward the spatial strategy of the LP, although the settlement hierarchy has become more refined. The larger villages fall within the fourth tier and are subdivided into Categories 1, 2 and 3, depending on their level of facilities and services. Although this is not yet adopted policy, it follows sustainable planning principles, including those in Paragraph 55 of the Framework. The Appellant did not allege that the hierarchy is incorrect or flawed.
20. Drakes Broughton is a Category 2 village and its facilities include a small parade of four shops, a village hall, a church, a public house and a First and Middle school. On the western side of the appeal land is an employment site with a number of commercial units. I also observed another public house and a few other commercial uses outside the main built-up area. The village seems

³ Appellant's Core Document 15.4.

to me to have a reasonable level of facilities to support some additional development.

21. Furthermore, it is in a good location to allow some journeys to be undertaken by modes other than the car. There is a regular bus service to Pershore and Worcester and although this does not always do a loop around the village, it travels along the Worcester Road and stops close to the proposed entrance to the appeal site. Pershore is a relatively short distance to the east and has a railway station with mainline services, including to London and Worcester. It is easily accessible by bicycle, bus or a short car journey. As part of the submitted Planning Obligation by Unilateral Undertaking (UU) there would be a contribution to improve the bus stops nearest to the site and this would help to make bus travel more attractive. It is also proposed to improve pedestrian links to the village and links to the cycle network thus enhancing the sustainability credentials of the site.
22. Emerging policy does not specify the amount of growth that would be suitable for a Category 2 village, which in the case of Drakes Broughton comprises about 736 dwellings. Outline planning permission has now been granted for 90 dwellings on the allocated site to the south of Worcester Road. In the last four years or so there have been about 97 further dwellings granted permission on land adjoining the settlement, although most have not yet been built. Whilst it is understood that two of the sites are subject to judicial proceedings, at the present time the decisions to grant planning permission remain valid and lawful. The Appellant contended that the starting point should be the village with its approved development. However, it seems to me that to assess the effects of growth on the settlement it is necessary to include all development permitted during the SWDP period. This would include the 187 permitted dwellings plus the 110 dwellings of the appeal scheme.
23. The District Council's concern relates to the effect on the health, social and cultural wellbeing of the village. In my opinion its evidence on the harm that would be caused in these respects was far from convincing. There was nothing from consultees to give concern that existing services or infrastructure, either in Drakes Broughton or in higher level towns such as nearby Pershore, would be stretched beyond capacity if the appeal scheme were to go ahead with the other developments mentioned above. It is the case that the school in the village would not be able to cope, but the Education Authority is satisfied that the matter could be satisfactorily addressed through financial contributions. No consultation responses have been provided to demonstrate that local doctors' or dentists' surgeries or the hospital in Pershore could not cope with the healthcare needs of the new population. It is not for the Appellant to demonstrate that capacity exists but rather for the District Council to provide evidence that it does not, in support of its reason for refusal.
24. The concern about social wellbeing relates to the pace of growth in the village and the loss of social cohesion as a result of a rapid influx of new residents. What is meant in draft Policy SWDP 2 (as proposed to be modified) by "modest growth" is not defined. The evidence suggests that the original hamlet grew substantially in the late 1960's and early 1970's but little has happened since, until the recent permissions referred to above. I am not therefore convinced that the District Council's claim of historic and organic growth applies to Drakes Broughton. I note that there has been a large amount of objection to the proposal but it is rather difficult to see why new inhabitants would not be

welcomed into village life. The Appellant makes the point that they would provide additional support for local facilities such as the village shops and other services and incomers would help redress an ageing population profile. This would have a positive effect on the vitality of the community.

25. Reference was made to an appeal decision relating to land at Chequers Lane, Wychbold⁴. Here the Inspector commented that substantially increasing the number of houses in a settlement without proportionate increases in the provision of local shops, infrastructure, employment and local services risked eroding community cohesion. The Inspector went on to say that this type of impact is difficult to quantify because it is hard to obtain tangible evidence. This seems to have emanated from an earlier appeal relating to development proposals in Feniton⁵. Whilst there may be a risk that such impacts could occur, it seems to me that this cannot be assumed in the absence of evidence. Such evidence can be obtained in the form of capacity assessments, for example, and account should also be taken of proposed mitigation.
26. There was local concern about the inadequacy of the surface water drainage system and flooding that occurs locally on occasion. However, the proposal would utilise sustainable drainage principles whereby the surface water runoff following development would not exceed that of the existing greenfield site. There were also local objections concerning the adequacy of the foul drainage system. Severn Trent is undertaking a hydraulic modelling exercise for the village as a whole but the fact of the matter is that it has a statutory duty to provide a connection to the foul drainage network. The statutory undertaker has not said that a contribution towards upgrading its facilities would be required or that it would be unable to accommodate the appeal development.
27. Drawing together the above points there is no evidence to conclude that adverse impacts on the health, social or cultural wellbeing of Drakes Broughton would arise from the appeal scheme and other development permitted in the vicinity.

Affordable housing

28. The proposal is for 40% of the dwellings to be affordable and for 10% of these to be for elderly people. This would exceed the 30% requirement in saved Policy COM2 in the LP and meet the 40% target in draft Policy SWDP 15 in the emerging SWDP. There is no dispute that the mix of social or affordable rented and intermediate housing units would reflect local needs and this would be controlled through the UU. Furthermore, the delivery of the affordable homes would be subject to triggers linked to market housing provision so as to ensure that they would come forward in an expedient manner.
29. The Appellant presented a considerable amount of evidence on affordable housing need and sought to demonstrate that the affordable housing element of the FOAN was constrained because it did not take account of the need arising from inward migration. The LP Inspector acknowledged that the need for affordable housing could not be met in full because to do so would be unviable. It is noted that historically the District Council's record of provision has been relatively poor, although over the last 2 years things have been improving. The District Council refers to two appeal decisions by the same

⁴ Council's Core Document 5.23.

⁵ Inquiry Document ID6

Inspector that were issued on the same date. He seems to have reached different conclusions as to the weight to be given to affordable housing as a benefit. However, it seems clear to me, on the evidence I have been given, that significant weight can be given to the affordable housing offer. Not all sites will be able to deliver at the 30% policy level. However, in this case the Appellant is satisfied that the scheme would be viable at 40% provision, which is equivalent to the highest rate in draft Policy SWDP 15 in the SWDP.

30. It is appreciated that affordable housing needs in Drakes Broughton itself are being addressed through, for example, the completion of the 11 affordable homes in Stonebow Road at the northern end of the village. However that does not mean that the contribution from the scheme would be any less welcome in the face of a pressing need in the District as a whole, as recognised by the Secretary of State in the Pulley Lane appeal decision.

Other Matters

31. One of the purposes of Policy GD1 is to control development in the countryside. Emerging Policy SWDP 2 also includes a provision to safeguard or enhance the open countryside and the Framework recognises its intrinsic character and beauty. The District Council did not include a reason for refusal regarding the impact on the rural area. Nevertheless it did consider that there would be some marginal harm. From my observations I noted that the appeal site is relatively well contained. On its southern side the new built development would fill the gap between the existing built up area and the large commercial buildings on the employment site to the west. The other boundaries are reasonably well defined by tall field hedges and their protection during construction and thereafter could be controlled by planning conditions.
32. There is a more open boundary to the rear of the properties fronting Stonebow Road, but this could be addressed through the landscaping proposals. The site slopes down in a north-easterly direction and, due to its topography, the views of the new houses from the public rights of way to the north would be limited. There would therefore be a degree of harm to the landscape and the new dwellings would be seen in some views. However, the adverse impacts would be relatively localised. In the circumstances this matter weighs against the proposal, but to a limited degree.
33. I have considered whether the proposition that the loss of a greenfield site, which has not been allocated for development would be inherently unsustainable if a five year housing land supply exists. As a matter of principle that does not sit well with the Framework's imperative to boost significantly housing supply. In the appeal decision relating to residential development at Oundle, there were few benefits put forward and the Inspector concluded that the proposal was not sustainable development⁶. In the appeal decision relating to land at Ashflats Lane, Stafford there was a policy priority to use brownfield land in not only the towns but also the villages⁷. These decisions are thus distinguishable from the present appeal. Conversely, a number of appeals have allowed greenfield development. It seems to me that it is the individual circumstances that are of relevance to the issue of sustainability in the final planning balance and that these are a matter for the judgement of the decision maker.

⁶ Council's Core Document 5.11.

⁷ Council's Core Document 5.5.

34. A footpath also crosses the centre of the site and emerges along the roadway adjacent to the school. The Development Framework that accompanied the planning application showed that this track would run through a green corridor. It is currently just a grassed, and in places muddy, path across the site and I note that the Rambler's Association welcomes its improvement. No doubt changes would not be made to the section that runs along the access road to the school would discussion with that institution. The Development Framework also shows an area of public open space around the pond in the north-eastern part of the site and the potential to provide links to the wider public footpath network. It is proposed to provide public open space in excess of policy requirements, which would also be available for use by existing villagers as well as new occupiers. These would represent a benefit of the appeal development.
35. There has been a large amount of public opposition to the scheme. Many local objectors considered that the local roads would not be able to cope with the traffic generated by this and other approved developments. I observed that the proposed new entrance would be on a relatively straight stretch of the Worcester Road, with good visibility in both directions. The Highway Authority has not raised objections to the proposal in terms of the capacity or safety of the existing road network and there is no evidence to satisfy me that a different conclusion would be justified.
36. It is understandable that for those who live in houses close to the site there would be a considerable change in outlook. Open fields would be replaced by a housing development and it is made clear in the representations that this would not be welcome. However there is no right to a view across third party land and this, in itself, would not provide justifiable planning grounds for objection. The layout of the new development would be subject to further consultation at reserved matters stage. There is no reason why an acceptable development would not be forthcoming to avoid adverse effects on the outlook and amenities currently enjoyed by adjoining occupiers.

Planning balance and whether the proposal would be sustainable development

37. The appeal development would be on greenfield land within a countryside location outwith the development boundary of Drakes Broughton. It would be contrary to saved Policy GD1 in the LP and also conflict with emerging Policy SWDP 2 (as proposed to be modified) in the emerging SWDP. The statutory starting point is the development plan which, in this case, is not out-of-date for the reasons I have given. In such instances the Framework makes clear that the presumption in favour of sustainable development means that determination should be in accordance with that plan unless material considerations indicate otherwise.
38. The Framework indicates that there are three interrelated dimensions to sustainable development. In terms of the economic role there would be jobs created both during the construction phase and thereafter. The new population would inject money into the local economy and support local shops and facilities, which would help maintain their viability. Whilst there would be Council Tax revenues, there would also be a new population to serve so this would not be a specific economic advantage. The District Council would benefit from the New Homes Bonus but absent of any evidence about what this would

be spent on, it is difficult to consider it as a benefit of this particular development.

39. In terms of the social role, the appeal scheme would provide new homes in a sustainable location where many day-to-day trips could be undertaken by modes of transport other than the car. There would also be wider benefits to the local population through the improvement to the local bus stops, footpaths and cycle routes thus making them more attractive to use. There is no dispute that the appeal proposal, which is currently in outline form, would have the potential to provide a high quality and energy efficient built environment. A very important benefit in terms of the social dimension of sustainability is the affordable housing offer. The 40% provision is above the current policy level in saved LP Policy COM2. There is an ongoing need for such housing in the District and this would be a positive factor of significant weight.
40. In terms of the environmental role the advantages would include the potential to improve biodiversity; the provision of open space over and above policy level requirements; the additional 0.3 ha of land for expansion of the school and the provision of green infrastructure, including the improvement of the public footpath where it crosses the site. There would be harm to the landscape through the loss of greenfield land, but this would be limited and localised. The appeal site is used as pasture land but there is no evidence that it is best and most versatile agricultural land and I note that the District Council has not objected on that ground. This is thus a matter of limited importance.
41. Drawing the above points together, I conclude that the various environmental, social and economic benefits would be substantial in this case. These material considerations are sufficient to outweigh the harm caused by the policy conflict and the landscape detriment that has been identified. The proposal would represent sustainable development for which planning permission should be granted.

Planning Obligation by Unilateral Undertaking (UU)

42. The UU is dated 10 December 2015. Its provisions were considered in some detail at the Inquiry when various officers of the District and County Councils were present. The UU may not be in the District Council's preferred format, but I am satisfied that it is legally correct and fit for purpose. In my experience it is not unusual for individual homeowners or tenants to be released from covenants in a UU, other than in respect of matters such as the affordable housing element.
43. Saved Policy GD3 in the LP establishes that planning obligations will be sought to ensure that development can be accommodated in a sustainable way and that impacts on the community are acceptable. Saved Policy SR5 seeks to minimise car dependency. Saved Policy COM12 concerns the provision of public open space in accordance with adopted standards where there is a local deficiency. Policy WCS17 in the Worcestershire Waste Core Strategy requires provision for waste to be made in all new development.
44. It is nonetheless necessary to consider whether the obligations meet the statutory requirements in Paragraph 122 of the Community Infrastructure Levy (CIL) Regulations in order to determine whether or not they can be taken into account in the grant of planning permission. The requirements are that the obligations must be necessary, directly related and fairly and reasonably

related in scale and kind to the development in question. It is noted that the Planning Obligations contain a clause that the contributions are conditional on my finding that they comply with the CIL Regulations. I now consider each obligation in turn.

45. I have already considered the affordable housing offer in some detail above and concluded that it is policy compliant and can be taken into account as a necessary requirement of the appeal scheme. From the information provided, it is clear that there is sufficient capacity at Pershore High School and St Barnabus C of E Middle School to meet the educational needs of the development. However, the First School does not have sufficient space and it is necessary for the shortfall in provision to be remedied. The level of contribution is based on the calculator in the *Education Facilities* supplementary planning document and would be used to support the replacement of temporary accommodation on the school site. The payments would be staggered and accord with the requirements of the Education Authority. There would also be 0.3 hectares of land available to the school for a nominal fee and this would allow the capacity of the playing fields to be extended, for example.
46. The highways contribution is towards the costs of delivering the SWDP and is based on the trips generated by the developments planned within that document. Each junction that requires mitigation has been costed, along with an associated trip rate. The particular works in question would be the signalisation of the Worcester Road/ Three Springs Road junction in Pershore. The contribution has been worked out on the basis of the number of trips to Pershore derived from the Transport Assessment. The problem with this approach is that the cost assignment seems to be based on the development accounted for within the SWDP. The appeal site is not an allocated site and so these would not be planned development generated trips. In the circumstances it is not possible to conclude that the contribution is either necessary or fairly related to the appeal proposal.
47. The open space requirements are detailed in the *Contributions towards Service Infrastructure* supplementary planning guidance (the SPG). This includes an allowance for various types of open space. In accordance with the calculation that has been made, the appeal scheme would slightly exceed the requirement. The UU also makes provision for an off-site contribution if the on-site facilities are not forthcoming. This again relies on the SPG and it is understood that the money would be put towards improvements to facilities at the recreation ground at Drakes Broughton. The recreation and open space provision is necessary to meet the needs of the new population.
48. A contribution is provided towards the refurbishment of the sports hall at Pershore High School. The evidence suggests that there is a shortage of built sports facilities in the District and in such circumstances the SPG indicates that indoor and outdoor leisure facilities may be required. The sum of money is based on the Sports England Facilities Calculator and it seems to me that this would be necessary and relevant to the new population. However, the contribution towards off-site formal sports, which would provide grass pitches at Pershore High School, is not so easily justified. The on-site or off-site public open space contributions include provision for adult or youth outdoor sports facilities. In my view a further requirement has not been adequately justified.

49. The bus stop contribution would be used for improvements to the nearest facilities. This would make bus travel a more attractive option for new occupiers of the site. The cycle link contribution would improve local cycle routes and would encourage cycle travel. The pedestrian contribution would be used for improvements to pedestrian links to the village. The recycling contribution would cover the cost of providing recycling facilities for the new residents for which the District Council do not have a statutory duty. These contributions are based on the costs of the various improvements or provision and are necessary in order to ensure a high quality development and improve the sustainability credentials of the site. In relation to the cycle link contribution it seems to me that the payment of £15,000 is the appropriate sum as this is based on the Highway Authority's costings.
50. Following the close of the Inquiry, the main parties were consulted on the applicability of the £2,300 to be charged by the District Council for monitoring and administrative fees. Reference was made to the High Court judgement of *Oxfordshire County Council v Secretary of State for Communities and Local Government, Cala Management Ltd and Others* ([2015] EWHC 186 (Admin)) and I have carefully considered the representations received on the matter. In the present case it is noted that the fees do not apply to monitoring and administration carried out by Worcestershire County Council, which relate to education and highways.
51. The conditionality clause applies to this payment under Clause 6.2 of the UU. Regardless of whether the District Council has the powers to charge such fees under other legislation, it is necessary to consider whether the obligation relating to them in the UU meets the requirements of Regulation 122 of the CIL Regulations. The Oxfordshire case did not conclude that monitoring fees were unacceptable in principle, but it did indicate that they needed to be justified, bearing in mind a Council's statutory duties and the lack of provision in the planning legislation for such fees in respect of planning obligations. My concern in this case is that there is no evidence that the District Council would suffer special or exceptional costs. Furthermore, the fees appear to derive from a standard structure that take no account of the individual costs of monitoring or administering the obligations in question. In the circumstances I am unable to conclude that they are necessary or fairly and reasonably related in scale and kind to this particular development.
52. In conclusion, all of the obligations comply with Regulation 122 of the CIL Regulations and can be taken into account, save for the highways contribution, the contribution towards off-site formal sports and the obligation relating to monitoring and administration fees. I note that the Inspector in the Walcot Meadow, Drakes Broughton appeal decision reached a different conclusion on these two obligations. However, in that case my colleague explained that there was no dispute between the parties and did not explain his reasoning on the individual contributions further. In the present appeal there is a dispute and a considerable amount of evidence was given to provide justification for the approach that I have taken.
53. In April 2015 the pooling restrictions in Regulation 123 of the CIL Regulations came into effect. The relevant provision is that a planning obligation cannot constitute a reason for granting planning permission to the extent that it provides for the funding or provision of an infrastructure project or type of infrastructure for which five or more separate planning obligations have been

entered into. I am satisfied from the information that was provided by the District and County Councils, that none of the obligations offend the pooling restrictions in this case.

Planning conditions

54. Planning conditions were discussed in detail at the Inquiry. Where necessary I have changed the suggested wording in the interests of precision or enforceability and to accord with the provisions of the Framework and Planning Practice Guidance. It is necessary to impose the standard conditions for outline planning permissions, to ensure that development is carried out expediently. In the interests of highway safety no dwelling should be occupied until the new access has been provided. However, adequate details are shown on Drawing No: C14029/004. Improvements to the public highway would be undertaken under Section 278 of the Highways Act and it is not reasonable to require the Appellant to enter in to an Agreement under that legislation. Travel Plans are an important means by which more sustainable travel options can be achieved and a condition is therefore justified.
55. A development of this size is likely to cause some inconvenience during construction. This can be limited through considerate practice detailed in a Construction Method Statement. This would cover such things as where operatives park and arrangements for the delivery of construction equipment and materials. It would also include details of how the developer intends to control the routing of heavy vehicles in order to minimise disturbance to local people and delays on the highway network. There are a number of hedgerows to be retained and the pond in the north-east corner of the site will form part of the sustainable drainage system (SuDS). Measures to protect these features during construction are also required. A separate Environmental Management Plan for construction activity would be unnecessary.
56. Conditions are required to ensure adequate provision is made for surface water and foul drainage. The Flood Risk Assessment and Drainage Strategy indicates that surface water will be dealt with using sustainable drainage principles. The success of a SuDS system depends to a large degree on its future management and maintenance remaining effective. I have re-worded the drainage condition to focus on these components. Severn Trent is the statutory undertaker and has not indicated that the developer will need to undertake specific hydraulic modelling. Nevertheless a condition is required to ensure proper provision is made for the disposal of foul sewerage from the site.
57. The Ecological Appraisal that accompanied the planning application suggested that there is reptile activity on the site. In the circumstances, a method statement relating to reptiles is justified. The hedgerows, open spaces and pond area will only continue to provide landscape and ecological benefits if they are suitably managed in perpetuity and I have imposed a condition accordingly. There is no specific evidence that the site has archaeological potential. The County Archaeologist suggested two conditions on the basis of a precautionary approach. These seem to me disproportionate and I have imposed a single condition that requires a relatively light touch.
58. The Noise Assessment Report indicates that it would be likely that some dwellings would be affected by road traffic noise. A number of recommendations are made to alleviate adverse impacts and a condition is necessary to ensure that a high quality built environment is achieved. Finally,

even though this is an outline proposal, the plans should be specified for the avoidance of doubt and in the interests of proper planning.

59. The District Council has suggested a condition relating to contamination. Although this was recommended in the survey of ground conditions that accompanied the planning application, there is no evidence that this greenfield site is contaminated. I do not therefore find justification for imposing such a condition. A number of conditions were put forward for matters that can adequately be dealt with at reserved matters stage, including internal roads, highway drains, landscape details or landscape management. These are unnecessary in the circumstances.
60. I have had regard to all other matters raised in the oral and written representations but have found nothing to change my conclusion that the appeal should succeed.

Christina Downes

INSPECTOR

Richborough Estates

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Miss Sarah Clover Of Counsel, instructed by the Head of Legal and Support Services, Wychavon District Council

She called:

Mr T Roberts BA(Hons) DLP Planning Consultants
MRTPI

*Mr D Addison BSc MA Principal planning Officer, Wychavon District
MRTPI Council

*Mr D Pilcher County Highways Officer, Worcestershire County
Council

*Mr J Teal Community Development Manager, Wychavon
District Council

* Present just for the Planning Conditions and/ or Planning Obligations sessions

FOR THE APPELLANT:

Mr Martin Carter Of Counsel, instructed by Miss D Richardson,
Gladman Developments Ltd

He called:

Mr R Hindle BSc(Hons) Director of Rural Solutions Ltd
MRICS

Mr G Venning MA Associate Director of Level Limited

Miss D Richardson Planning Manager of Gladman Developments Ltd

INTERESTED PERSONS:

Mr K Skillern Chairman of the Drakes Broughton &
Wadborough with Pirton Parish Council and local
resident

Mr L Wild Drakes Broughton & Wadborough with Pirton
Neighbourhood Plan Steering Group and local
resident

DOCUMENTS

- 1 Representation by Mr Skillern delivered orally to the Inquiry
- 2 Representation by Mr Wild delivered orally to the Inquiry
- 3 Appeal decision: Land north of Wyre Road, Pershore (submitted by

- Miss Clover)
- 4 Secretary of State's decision and Inspector's Report: Land at Sibford Road, Hook Norton, Banbury, Oxfordshire (submitted by Mr Carter)
- 5 Letter from the Planning Inspectorate confirming withdrawal of the appeal against the refusal of planning permission for the second application (110 dwelling scheme)
- 6 Appeal decision: land at Feniton, Devon (submitted by Miss Clover)
- 7 Appeal decision: Land at The Holloway, Pershore (submitted by Miss Clover)
- 8 Agreed amended application description
- 9 Information relating to sewerage infrastructure (submitted by Mr Carter)
- 10 CIL compliance statement (submitted by Miss Clover)
- 11 Planning Obligation by Unilateral Undertaking (submitted by Mr Carter)
- 12/1-3 Powers of Attorney (submitted by Mr Carter)
- 13 Extracts from the SWDP (as proposed to be modified), including Policy SWDP 3 and its supporting text

PLANS

- A/1-A/3 Application plans

SCHEDULE OF CONDITIONS

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) No dwelling shall be occupied until the access onto the B4084 shown on Drawing No C14029/004 has been carried out.
- 5) No dwelling shall be occupied until a Travel Plan, including a timetable for its implementation, has been submitted to and approved in writing by the local planning authority. The Travel Plan shall be implemented as approved.
- 6) No development shall take place until a Construction Method Statement (CMS) has been submitted to and approved in writing by the local planning

authority. The approved CMS shall be adhered to throughout the construction period. The CMS shall provide for:

- i) the parking of vehicles of site operatives and visitors
 - ii) loading and unloading of plant and materials
 - iii) storage of plant and materials used in constructing the development
 - iv) wheel washing facilities
 - v) measures to control the emission of dust and dirt during construction
 - vi) the protection of the hedgerows and pond within the site and along its boundaries
 - vii) the routing of construction vehicles
 - viii) hours of construction and deliveries.
- 7) No development shall take place until a detailed drainage scheme for the disposal of surface water, incorporating sustainable drainage principles, has been submitted to and approved in writing by the local planning authority. The scheme shall be in accordance with the submitted Flood Risk Assessment and Drainage Strategy dated September 2014 and shall include details of future management and maintenance and a timetable/phasing plan. Development shall be implemented in accordance with the approved drainage scheme.
- 8) No development shall take place until details of the provisions to be made for foul drainage have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 9) No development shall take place until a Reptile Method Statement detailing how the site will be cleared to avoid harm to reptiles, shall be submitted to and approved in writing by the local planning authority. This shall include a timetable for implementation. The development shall be carried out in accordance with the approved Reptile Method Statement.
- 10) No dwelling shall be occupied until details of the future management of the hedgerows, pond area and public open spaces, have been submitted to and approved in writing by the local planning authority. Development shall be in accordance with the approved details.
- 11) No development shall take place until a programme of archaeological work has been implemented in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority.
- 12) No dwelling shall be occupied until the noise attenuation measures required to protect that dwelling from external noise shall have been carried out in accordance with the recommendations of the Noise Assessment Report by Wardell Armstrong dated June 2014.
- 13) The development hereby permitted shall be carried out in accordance with the following approved plans: 5412/LP001A; C14029/004; 5412/ASP3G.