

**TOWN AND COUNTRY
PLANNING ACT 1990 – Section 78**

**PLANNING AND COMPULSORY PURCHASE
ACT 2004**

APPEAL BY;

Lioncourt Strategic Land Limited

**Land At (Os 8666 5944) Dilmore Lane
Fernhill Heath**

**Residential development for up to 130
dwellings (Use Class C3), including
vehicular access from Dilmore Lane,
pedestrian and cycle links, public open
space, car parking, drainage, landscaping
and other associated infrastructure. All
matters reserved except for access.**

**PROOF OF EVIDENCE OF
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SUMMARY

This appeal is by Lioncourt Strategic Land Limited (“the Appellant”) against the decision of Wychavon District Council (“the Council”) to refuse planning permission for a residential development (up to 130 dwellings), access, public open space, parking, landscaping and other associated drainage and development infrastructure on land at (OS 8666 5944) Dilmore Lane Fernhill Heath (“the site”).

Although two reasons to refuse planning permission were advised by the Council in a Decision Notice issued on 19th June 2024, this was a planning application which was recommended for planning approval by officers, there are no statutory consultees who are objecting to the proposals and the development should have been approved.

As a proposal for housing, the appeal is made in the context of the Government’s requirement to boost significantly housing land supply and responds specifically to the ongoing need to deliver housing nationally and in Wychavon District where the Council cannot demonstrate their required minimum supply. It is also now submitted in the context of the recent Written Ministerial Statement (WMS) “Building the Homes We Need” with its clear reaffirmation of “...the most acute housing crisis in living memory. Home ownership is out of reach for too many; the shortage of houses drives high rents; and too many are left without access to a safe and secure home.” Planning is seen as a clear path to economic growth where the WMS highlights that “sustained economic growth is the only route to improving the prosperity of our country and the living standards of working people. Our approach to delivering this growth will focus on three pillars; stability, investment and reform. But this growth must also be generated for everyone, everywhere across the country – and so nowhere is decisive reform needed more urgently than in housing.” These statements speak directly to the weight to be given to new housing, including affordable homes, in the overall planning balance and the economic benefits to the economy which new housing brings. The message that this Country needs more homes, with everyone, everywhere across the Country to play their part in order to bring about economic growth, could hardly have been more strongly put.

The Development Plan for the area is the South Worcestershire Development Plan (SWDP) (2016) and the North Claines Neighbourhood Plan (NCNP) (2017). Although not allocated for development in the Development Plan and outside the defined Development Boundary, the Neighbourhood Plan recognises the need to allow more flexibility for new housing developments outside of such development boundaries when the supply of land for housing falls below 5 years. Therefore, the location of the site outside the Development Boundary does not raise any conflict in principle with the Development Plan properly read and applied as a whole.

The above can be seen from Policy NCH1A of the NCNP. Although it sets out the general rule that “Proposals for further new residential development beyond the existing development boundaries of Worcester and Fernhill Heath will be resisted” , this is followed immediately by the very important exception, “unless it is demonstrated that there is not a 5-year supply of deliverable housing sites and that no other policies within the NCNP and SWDP would preclude

development on the site such as Green Belt, Local Green Space or locations at risk of flooding". The site is not within an area defined as Green Belt, Local Green Space or at Flood Risk.

The Council cannot currently demonstrate a 4 year supply of deliverable sites for housing. Indeed, the Council currently identify a 2.78 year land supply with a shortfall of 1,085 homes. The shortfall in supply is significant. If the proposed changes to planning and the NPPF as set out in the recent Written Ministerial Statement come about, then the changes to the calculation of Local Housing Need (LHN) and the re-introduction of the minimum 5 year supply requirement will have further implications for Wychavon District where the new LHN 5 year supply requirement including a 5% buffer would be 5,035 dwellings and would equate to a supply of 1.35 years, or a shortfall of some 3,680 dwellings.

The National Planning Policy Framework is a material planning consideration in the determination of the appeal. It requires the Council to maintain a 4 year supply of land for housing. In circumstances here where the Council cannot demonstrate a 4 year supply of land for housing, the NPPF advises that the most important policies for determining the appeal should be considered out of date and planning permission should be granted. This is unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed, or the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework, taken as a whole. This is the "tilted" planning balance in favour of granting planning permission and is similarly set out in the Development Plan in policy SWDP1 of the SWDP.

Policy SWDP2 of the SWDP also applies to this appeal site and sets out the policy approach to development beyond the Development Boundary. However, that is a policy which was adopted before the Neighbourhood Plan and is one which is out of date, is constraining housing supply contrary to policy objectives, and any in principle conflict with it must be given less weight.

In applying the planning balance here, the adverse impacts of this development are comparatively moderate, and include principally the less than substantial harm (but at the low end of that spectrum of harm) to the setting of a nearby listed building as well as the limited and localised visual implications arising from the inevitable loss of some currently greenfield countryside as described in the evidence of Mr Lishman, a proportion of which (but not all) is best and most versatile agricultural land. None of the impacts of the development could be described as outweighing its benefits and certainly not significantly or demonstrably so particularly in the context of housing needs.

Those benefits are significant at a time when the Council is failing to meet its minimum expected housing supply by 1,085 dwellings and housing needs are not being met. Affordable housing needs are also not being met and there is a significant need for more affordable housing in the District where there are poor affordability ratios for housing. There is also a need for Self Build plots and this development will contribute to that particular supply. The delivery of both open market and affordable homes at a time of need (which is expected to increase), failing delivery and supply, as well as the provision of Self Build is a very significant benefit of the development.

The development will also bring with it economic benefits of housing development through the construction phase, particularly important given the way the Government has clearly linked planning to the Country's important economic growth objectives. Further, the economic health and prosperity of the area and its community will also benefit because of increased expenditure from the residents of the proposed development. It will also bring about significant new areas of public open space, including provision of a play area and community orchard which are of benefit to the new and existing community alike and have some benefit in the overall planning balance, as well as a 10% bio-diversity net gain, a benefit of moderate weight given these proposals were submitted well before statutory provisions required such gains.

The proposals here accord with each of the social, environmental and economic aspects of sustainable development expressed in the Framework and can readily be seen as sustainable.

The supporting material submitted with the outline application, supplemented during the determination period and through constructive dialogue with the Council Officers, demonstrates that all technical matters have been appropriately assessed. Where relevant and necessary, conditions and financial contributions are appropriately provided.

The proposals represent sustainable development, they accord with policy of the Development Plan and the planning balance weighs in favour of granting planning permission.

1. QUALIFICATIONS, EXPERIENCE AND EXPERT WITNESS DECLARATION

- 1.1 My name is Jason Mark Tait. I hold a BA Hons Degree and Post Graduate Diploma in Town Planning and I am a member of the Royal Town Planning Institute (MRTPI) and a Director of planning and development consultants, Planning Prospects Ltd.
- 1.2 I have over 32 years' experience in planning and development matters having worked previously for a number of private sector planning and property practices including Planning Consultants Chapman Warren, property advisors DTZ and until 2006 was a Director and Head of Planning in the Midlands for CBRE.
- 1.3 For nearly 20 years, Planning Prospects have been providing planning and development advice to a wide range of clients from Local Planning Authorities to private property companies, developers, homebuilders, individual land owners and trusts.
- 1.4 I am the founding Director of the Company, and our team of planners based in the Midlands advises numerous clients throughout the country. We are currently advising on a number of development projects including mixed use, residential, employment, retail and leisure developments. We also act for and provide specialist advice to Local Planning Authorities.
- 1.5 I am regularly involved in the negotiation of implementable planning permissions including for developments of a range of types and sizes. I have given evidence previously at numerous Public Inquiries, Planning Hearings and Examinations.
- 1.6 I know the area of the appeal site well having previously lived in Fernhill Heath for nearly 10 years, and currently live in Worcester. I have been involved in many housing developments within the South Worcestershire area and within Wychavon District over many years.
- 1.7 I provide planning evidence in the matter of this appeal. The evidence which I have prepared and provide for this appeal is true and has been prepared and is given in accordance with the guidance of my professional institution, the Royal Town Planning Institute, and I confirm that the opinions expressed are my true and professional opinions.

2. INTRODUCTION, BACKGROUND AND OVERVIEW

- 2.1 This appeal is by Lioncourt Strategic Land Limited (“the Appellant”) against the decision of Wychavon District Council (“the Council”) to refuse planning permission for a residential development (up to 130 dwellings), access, public open space, parking, landscaping and other associated drainage and development infrastructure on land at (OS 8666 5944) Dilmore Lane Fernhill Heath (“the site”).
- 2.2 My evidence here deals with general planning matters, the approach to the determination of the appeal, the application of planning policy and the overall planning balancing exercise.
- 2.3 Where appropriate, and to avoid my Evidence being unnecessarily lengthy, reference is made to the Planning Statement and other supporting material submitted with the Application as well as the appellant’s submitted Statement of Case. My evidence can also be read alongside the general “Planning” Statement of Common Ground which sets out a useful summary regarding the appeal proposals, the site, submitted supporting information with the application and identification of important and relevant Development Plan policies.
- 2.4 This appeal is made against the against the decision of the Council to refuse planning permission. Although the planning application was recommended for planning approval by Officers at Planning Committee, two reasons to refuse planning permission were advised by the Council in a Decision Notice issued on 19th June 2024. My evidence gives consideration to these reasons in my overall planning assessment. They relate to such matters as development boundaries, loss of best and most versatile agricultural land, heritage impact, landscape and the absence of a s106 planning obligation, although the Council’s position in respect of best and most versatile land and heritage impact has since changed, with it confirming that these two matters would not in its opinion justify refusal of the proposals.
- 2.5 The planning application was registered with the Local Planning Authority on the 1st August 2023 under application reference number W/23/01323/OUT. The application plans submitted to the Council included a Site Location Plan (drawing reference 8924-APP001) and Proposed Junction Arrangement – Site Access (drawing reference 230133-RAP-XX-XX-DR-TP-3202-P01). An Illustrative Master Plan (drawing reference 8924-APP002) and Parameter Plan (drawing reference 8924-APP00) and a Design and Access Statement were submitted to explain how the site could be developed and to guide future Reserved Matters applications.
- 2.6 Following a near 10 month determination period, the application for Outline planning permission was presented to Planning Committee on the 23rd May 2024 with a recommendation by officers that planning permission should be granted. The Planning Officer’s report to Planning Committee (CD 1) confirmed the following:
- The application site is located outside of but immediately adjacent to the development boundary for Fernhill Heath, which is defined as a Category 2 settlement in the SWDP 2016. However, the

Council cannot currently demonstrate a 4-year supply of deliverable housing sites and as such, the Council's policies for the supply of housing are out of date as per footnote 8 of paragraph 11 of the Framework. The weight that can be afforded to the Councils' housing policies is therefore reduced and the 'tilted balance' is engaged as per paragraph 11(d) of the Framework. This requires permission to be granted unless i). the application of policies in the Framework that protect assets of particular importance provide a clear reason for refusing the development; or ii). any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.'

- The North Claines Neighbourhood Plan is over 5 years old (adopted in 2017). As such, paragraph 14 of the Framework is not engaged, which means that even if there were to be a conflict with the NP, any restrictive housing supply policies within this plan are treated in the same way as policies in the Local Plan i.e they are considered to be out of date.
- Fernhill Heath is currently listed as a Category 2 village in the SWDP and is therefore suited to accommodate market and affordable housing needs.
- Whilst the site is located outside of the settlement boundary for Fernhill Heath, it is located immediately adjacent to it and has good access to the various services and facilities on offer in the village. It also has reasonably good access to public transport facilities, which would minimise demand for travel and offer genuinely sustainable travel choices without future residents necessarily being solely reliant on the use of the private car for their day to day living.
- The Illustrative Masterplan is well considered and would provide for a logical expansion of the existing settlement in this location. Whilst matters relating to appearance, layout, scale, and landscaping would be dealt with at the detailed design stage, it is considered that the scheme is capable of delivering high quality and visually attractive design that would comply with Policy.
- There are no technical objections to the proposal subject to conditions and financial obligations. The proposal would not have any adverse impacts that would significantly or demonstrably outweigh the benefits stated in this report and in particular concerning the character of the area, landscape or ecology, all of which can be mitigated against and the proposal would not have any adverse impact on the amenity of neighbouring properties in principle.
- The Landscape Officer generally concurs with the LVA that the proposed development, as shown indicatively on the Illustrative Masterplan, would be viewed from the north and west/northwest against the backdrop of existing settlement in Fernhill Heath. The nature of those views would be similar to those currently existing but brought further northwards than at present. The site would be contained in the wider landscape to the south and east by that existing development but would be visible from those residential areas adjacent. Considering the above, the Landscape Officer does not object to the proposed development on landscape and visual grounds. The proposal is therefore considered to be acceptable in this regard.

- The public benefits of the proposals are primarily the delivery of up to 130 dwellings, including 40% much needed affordable housing. In the context of a housing land supply deficit, it is Officer's judgment that the public benefits that would arise from the delivery of this housing would outweigh the identified less than substantial harm to the setting of Tapenhill Farmhouse. As such, the 'tilted balance' would not be disappplied.
- The site would be served by a safe and suitable access and the residual cumulative impact on the highway network would not be severe.
- The application was submitted prior to 12th February 2024, there is no mandatory requirement to provide at least 10% BNG. The fact that the proposed development would still deliver such a high percentage of BNG is afforded significant positive weight in the planning balance.
- In the context of a housing supply shortfall and an identified need for affordable housing, the delivery of up to 52 affordable dwellings on site is a substantial benefit to be weighed in the planning balance.
- The proposed development would result in the loss of more than 2ha of BMV, it has been adequately demonstrated that the development cannot reasonably be accommodated on non-BMW agricultural land in the surrounding area. Furthermore, there is no evidence to suggest that the loss of BMV would adversely affect the viability or management of a full-time farm business. Notwithstanding this, the loss of BMV would be irreversible and is a harm that needs to be weighed in the planning balance. However, it is considered that, on balance, the loss is outweighed by the benefits of the scheme.
- In terms of the social benefits of the proposed development, the proposal would deliver much needed housing in the context of a current housing land supply deficit. Significant weight is attached to this benefit. The proposal would also deliver much needed affordable housing to which substantial weight is attached.
- In terms of harms, there would be inevitable landscape harm by virtue of developing a greenfield site. However, the harm to the landscape would be limited. There would also be limited to moderate harm by the loss of BMV and moderate harm to the setting of the listed building. With the 'tilted balance' engaged, it is considered that the harms identified would not significantly and demonstrably outweigh the benefits of the scheme.
- No objections from any statutory consultees including the Landscape Officer, Natural Heritage Officer (Ecology), WCC County Archaeology, WDC Housing Officer, Conservation Officer, Worcester Regulatory Services (Contaminated Land and Noise), Land Drainage Engineer, Parks and Green Space, WCC as LLFA, County Highways Authority, Severn Trent Water, WCC Public Rights of Way, Hereford and Worcester Fire Service, West Mercia Police (Designing Out Crime

Officer), Emergency Planning and Projects Officer, NHS Hereford and Worcestershire or Worcestershire County Education.

2.7 Notwithstanding the officer's recommendation to approve and their thorough and logical assessment of the site as set out, the Committee resolved to refuse planning permission. The Decision Notice (CD 3) was issued on the 19th June 2024, with the Council citing two reasons for refusal, as follows;

1. **The application site lies outside of a defined development boundary and is therefore classed as being open countryside where development is strictly controlled. The proposal does not meet the criteria for the development to be considered as an exception to Policy SWDP2 of the South Worcestershire Development Plan and it does not preserve and enhance the open countryside and character of the area, contrary to Policies SWDP2 and SWDP25 of the South Worcestershire Development Plan.**

The proposed development would lead to a significant loss of Best and Most Versatile agricultural land contrary to Policy SWDP13 of the South Worcestershire Development Plan.

The proposed development would have an adverse impact on the designated heritage asset of Tappenhill Farmhouse, with part of the application site forming a key part of the setting of this Grade II Listed Building, contrary to Policies SWDP6 and SWDP24 of the South Worcestershire Development Plan and Chapter 16 of the National Planning Policy Framework.

The benefits of the proposal are not considered to outweigh the adverse impacts that would arise to the open countryside, the loss of Best and Most Versatile agricultural land, and the setting of Tappenhill Farmhouse and therefore in the application of Paragraph 11(d) of the National Planning Policy Framework the proposal does not represent sustainable development.

2. **In the absence of a signed Section 106 legal agreement no arrangements are in place to secure the required provision of affordable housing; education contributions; public open space; primary healthcare contributions; highway contributions towards footway improvements, community transport and public bus service enhancements; and contributions towards formal sports and leisure. As such, the proposed development does not meet the objectives of sustainable development and cannot be delivered with acceptable impacts on the community. Therefore, the proposed development is contrary to Policies SWDP1, SWDP4, SWDP5, SWDP7, SWDP15 and SWDP39 of the South Worcestershire Development Plan.**

2.8 I believe that the Officer's recommendation to approve planning permission was a correct one and planning permission should have been granted by the Council and my evidence seeks to explain why. It explains that, in the absence of the minimum required supply of land for housing, the proposals are in line with Development Plan policy including Policy NCH1A of the Neighbourhood Plan and SWDP1 of the South Worcestershire Development Plan. In applying the planning balance here, the adverse impacts of this development are comparatively minor, and include principally the less than substantial harm (but at the low end of that spectrum of harm) to the setting of a nearby listed building as well as the limited and localised visual implications arising from the inevitable loss of some currently greenfield countryside, a proportion of which (but not all) is best and most versatile agricultural land. None of the impacts of the development could be described as outweighing the benefits and certainly not significantly or demonstrably so, particularly in the context of housing needs.

2.9 Those benefits of development are significant at a time when the Local Plan is failing to meet its minimum expected housing supply by 1,085 dwellings and housing needs are not being met. The Council cannot

demonstrate the minimum 4 year supply of land for housing and the shortfall is significant. Affordable housing needs are also not being met and there is a significant need for more affordable housing in the District where there are poor affordability ratios for housing. The delivery of both open market and affordable homes at a time of need (which is expected to increase), failing delivery and supply is a very significant benefit of the development. The development also brings with it Self Build opportunities, again in need. Added to this, there are economic benefits of housing development through the construction phase, particularly important given the way the Government has clearly linked planning to the Country's important economic growth objectives. Further, the economic health and prosperity of the area and its community will also benefit because of increased expenditure from the residents of the proposed development. It will also bring about significant new areas of public open space, including provision of a play area and community orchard which are of benefit to the new and existing community alike and have some moderate benefit in the overall planning balance, as well as a 10% bio-diversity net gain, a benefit of moderate weight given these proposals were submitted well before statutory provisions required such gains.

- 2.10 The proposals represent sustainable development, they accord with policy of the Development Plan and the planning balance weighs in favour of granting planning permission.

The Appellant

- 2.11 The planning appeal is submitted on behalf of Lioncourt Strategic Land Limited who operate as the strategic land development arm of the Worcester based home building company, Lioncourt Homes.
- 2.12 Whilst submitted in outline, the level of detail provided demonstrates that this is a deliverable scheme and I understand there is no disagreement between the appellant and the Council regarding this site's ability to contribute positively to the supply of housing over coming years, subject to planning permission being granted.

The Appeal Site and its Location

- 2.13 A full description of the appeal site and its surrounding context is set out within the information submitted in support of the planning application, including in particular the submitted Planning Statement, Section 2 (CD 21). An agreed description of the site and its surroundings has also been provided in the Statement of Common Ground progressed between the Appellant and the Council.
- 2.14 The site extends to approximately 7.94 ha of land and is located east of Dilmore Lane in Fernhill Heath, Worcestershire. The site comprises agricultural land, generally bounded by existing hedgerows with some trees. It provides for a logical extension to the recent residential development and edge of Fernhill Heath to the south at Suffolk Way.
- 2.15 To the east the site adjoins other existing housing on the edge of Fernhill Heath at Firlands Close and Oak Apple Close both of which join to Station Road. Dilmore Lane forms the western boundary of the site. To the north is the wider open countryside, generally contained further north by Lower Town.

- 2.16 Fernhill Heath is a substantially sized settlement with a population of around 3,000 with a good range of day to day facilities and services and has good access to Worcester (less than 4km) to the south as well as Droitwich (similarly around 4km) not far to the north including their additional range of services and facilities including employment opportunities.

Site History

- 2.17 There is no planning history for the site itself although the Statement of Common Ground lists details of the adjacent recently constructed development by Taylor Wimpey to the south and its permission as well as another nearby development which is currently subject to a planning application off Dilmore Lane, to the rear of properties fronting Danes Green. Officers' reports for those developments, all recommended for approval, are contained in the Core Documents (CD's 54, 55 and 56).
- 2.18 The evidence of Mr Lishman refers to the similarity in consideration of landscape effects in the Officer's assessment of the adjacent Taylor Wimpey development to the south in his evidence. The development was constructed over recent years by Taylor Wimpey comprising 120 new homes, and is now largely complete with only the top wearing course of the roads to be completed and then adopted by County Highways. Similar to this application, that development provided for a cul de sac development with access from Dilmore Lane, areas proposed for green infrastructure and public open space. It created the pedestrian cycle link to Firlands Close to the east and onwards to Station Road, improving connectivity of the site to other areas of Fernhill Heath.
- 2.19 Permission for this site was given in 2015 and the planning application was determined under the previous Wychavon Local Plan where it was not allocated for development and was outside of the development boundary. At that time, the Council could demonstrate a 5 year supply, however its policies for housing were judged out of date and the proposals judged on the planning balance. At the time the site was also a draft allocation in the then emerging South Worcestershire Development Plan which was subsequently adopted in 2016, but of course that was not determinative in the decision. The Officers report (CD 55), confirmed objections from the Parish Council and 410 objections from residents to the scheme. Fernhill Heath was recognised as a sustainable location in the district and the officer's report confirmed that the village was capable of accommodating the scale of the proposed housing development. There were "no strong landscape objections to development, which warrant a refusal of this application". Impacts on other listed buildings were assessed, but in respect of Tappenhill Farmhouse, it stated "The farmhouse is concealed from the site by a range of buildings, fences, trees, foliage and stored machinery. Consequently, although it is a building of 'Medium heritage significance' it is orientated such that the proposed development will have no effect on its setting." Part of the site was noted as being Grade 3a, best and most versatile agricultural land, although referred to in the Officer's report (at the time) "recent appeal decisions in Shottery and Bidford-upon-Avon Inspectors have determined that the loss of grade 1, 2 and 3a agricultural land is outweighed by the need to meet an identified undersupply of housing land in accordance with paragraphs 47 and 49 of the Framework."

- 2.20 The land to the south-east of the Site to the rear of Danes Green has a pending planning application under reference 21/02974/FUL 'Land at (Os 8623 5933) Dilmore Lane Fernhill Heath'. The development of that land has been proposed by William Davis Homes for a scheme of 42 dwellings, including 40% affordable homes, and associated access, drainage, and green infrastructure.
- 2.21 This is a draft allocated site (SWDP60/16) in the emerging South Worcestershire Development Plan Review. It was presented to Planning Committee on the 28th March 2024, recommended for planning approval, but was deferred at Committee for reasons related mainly to detailed design. The Officers Report (CD 56) confirms the comments of the Conservation Officer in that case regarding impacts on three listed buildings including Tappenhill Farmhouse. Little weight is attached to its emerging allocation in the SWDP Review. The site was similarly located immediately adjacent to the village development boundary of Fernhill Heath. In this regard, the officer considered the application site could reasonably be considered to be well-related to the settlement. The site was noted as being Grade 2 and 3a best and most versatile agricultural land. Fernhill Heath was noted as a Category 2 village in the SWDP and that it was proposed to be upgraded to Category 1 in the SWDP. 145 objections were raised in respect of the proposals, including from the Parish Council.

Approach to this Proof of Evidence

- 2.22 Against this background, my evidence sets out consideration of the relevant planning factors having regard firstly to the Development Plan and then all other material planning considerations. A description of the proposed development which is the subject of this appeal is set out in Section 3, followed by a summary of the relevant planning policy context in Section 4 including consideration of the National Planning Policy Framework (NPPF or generally referred to in my evidence as the Framework) as well as Development Plan policies.
- 2.23 Noting that s38(6) of the Planning and Compulsory Purchase Act 2004 states that where regard is to be had to the Development Plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise, I give specific consideration to whether the development accords with the Development Plan. In doing so I keep in mind the well-known guidance provided by the courts that the Development Plan is to be read and applied as a whole. I then identify and consider material considerations, to see whether they support or undermine the case in favour of granting planning permission. The NPPF is a material consideration in the determination of this appeal. I also therefore give consideration to the content of Government policy within the Framework, with particular focus on specific provisions relating to the delivery of a sufficient supply of homes. The Council cannot demonstrate the minimum 4 year supply of land for housing (2.78 years, a significant shortfall of some 1,085 dwellings over the next 4 years), and in this context I also consider how this affects the approach to and the determination of this appeal.
- 2.24 In assessing the proposals overall, I set out the proposals having regard to Development Plan policy, and balance all other material considerations. In doing so and drawing from other supporting reports and

evidence on behalf of the appellant, my evidence here sets out a considered planning balancing exercise to conclude on the overall merits of the proposed development.

3. PROPOSED DEVELOPMENT

- 3.1 Outline planning permission is sought for a residential development of up to 130 homes with pedestrian and cycle links, public open space, car parking, drainage, landscaping, other associated infrastructure and vehicular access point from Dilmore Lane.
- 3.2 The outline planning approach here is conventional and I have experience of securing planning permissions in this way on many sites throughout the country. It seeks to secure an outline planning permission where the development parameters are shown on plans and within supporting material so that the nature and extent of the proposed development can still be readily understood.
- 3.3 The appeal proposals are in outline with all matters reserved for subsequent approval other than the new means of vehicular access to the site direct from Dilmore Lane, which is included in this submission and not reserved for subsequent approval. Matters such as appearance, layout, scale of building as well as the landscaping of the site and internal site access roads are to be the subject of subsequent reserved matters approvals, or conditions.
- 3.4 The appeal plans comprise a Site Location Plan 8924-APP001 (CD 15) and Site Access Drawing 230133-RAP-XX-XX-DR-TP-3202-P01 (CD 17). In addition, although not for formal approval, submitted with the application was a Illustrative Masterplan 8924-APP002 (CD 19) and more latterly superseded by Illustrative masterplan 8924-APP02 Rev A (CD 42). Both show how the site could be developed, indicate the nature and quality of a scheme which can be achieved and are a guide to future Reserved Matters applications.
- 3.5 A detailed assessment of the site and justification for the proposed development in design terms was set out within the Design and Access Statement (CD 20 and 40) drawing upon other supporting information accompanying the application.
- 3.6 The development proposals are intended to be considered having regard to the entirety of the planning application submission given the interrelationship of information provided within each of the submitted supporting documents including the Planning Statement (CD 21), the Design and Access Statement (CD 20 and 40) as well as other supporting documents and the application plans and information submitted for illustrative purposes.
- 3.7 Principal elements of the proposed development can be noted however as follows;
- The development of up to 130 homes
 - 40% of the proposed new homes to be affordable homes, which would equate to 52 affordable homes based on 130 homes being developed in total
 - Self build plots for people to build their own homes
 - A new children's play park as well as a community orchard

- Significant biodiversity net gains, with areas of the site created and managed to contribute to the local ecological network
- Sustainable drainage areas to manage surface water drainage
- Financial contributions to support local services and infrastructure including to mitigate any impacts, creating additional capacity as required, and in line with Development Plan policy

3.8 The above are discussed and explored in more detail in my evidence.

4. PLANNING POLICY CONTEXT

4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission are determined in accordance with the Development Plan unless material considerations indicate otherwise. Government policy, principally the National Planning Policy Framework published in December 2023 is a material consideration when determining planning applications/appeals.

Development Plan

4.2 The Development Plan in the case of this appeal is the South Worcestershire Development Plan (SWDP) (2016) and the North Claines Neighbourhood Plan (NCNP) (2017).

4.3 The most important policies from the Development Plan concerning the principle of the proposed development are;

- SWDP2 – Development Strategy and Settlement Hierarchy
- NCH1A – New Residential Development

4.4 In addition to the above, where I conclude that Policy SWDP 2 is out of date, the application of Policy SWDP 1 - Sustainable Development Principles, becomes more important as I explain below.

4.5 Other relevant policies from the Development Plan cited in the Council's reason for refusal are;

- SWDP4 – Moving Around South Worcestershire
- SWDP5 – Green Infrastructure
- SWDP6 – Historic Environment
- SWDP7 – Infrastructure
- SWDP15 – Meeting Affordable Housing Needs
- SWDP24 – Management of the Historic Environment
- SWDP25 – Landscape Character
- SWDP39 – Provision for Green Space and Outdoor Community Uses in New Development

4.6 Other policies from the Development Plan of relevance to detailed matters are set out in the Statement of Common Ground (CD 45).

South Worcestershire Development Plan (2016)

4.7 The South Worcestershire Development Plan (SWDP) was adopted in February 2016 (CD 4). It covers the administrative authorities of Malvern Hills District Council, Wychavon District Council and Worcester City

Council over the period from 2006 to 2030. The Plan identifies a requirement for about 28,400 dwellings for South Worcestershire in that period, of which 10,600 were to be delivered in Wychavon District, excluding additional provisions for housing within the Wider Worcester Area which also included additional housing. Annual requirements over the plan period were phased to a trajectory which sought to see the greatest levels of growth across the SWDP area through the period 2018 to 2030.

4.8 The vision for the SWDP includes growth in housing and employment to create a robust, competitive local economy, and for residents to have access to a range of housing types and tenures to help meet the needs of young families, older people and single households. The plan seeks a high standard of living in an attractive, safe, secure, low-crime environment with investment in green infrastructure to improve access to healthy opportunities and lifestyles for residents, as well as helping to improve biodiversity interest. The SWDP objectives cover a range of topics to support these aims.

4.9 The most important policies are summarised below. The weight to be given to Policy is explored later in my evidence, noting the Council cannot currently demonstrate the required supply of land for housing which dictates that the most important policies are out of date:

- **SWDP1 – Overarching Sustainable Development Principles**

This policy become more important where Policy SWDP 2 is out of date, and sets out the approach to decision taking within the Development Plan against objectives to achieve sustainable development. Criterion A states that the Local Authority will take a positive approach when considering development proposals that reflects the presumption in favour of sustainable development contained within the national planning policy framework. It states that the local authority will work proactively with applicants to find solutions so that proposals can be approved wherever possible. Criterion B states that planning applications that accord with policies in the plan or neighbourhood plans will be approved unless material considerations indicate otherwise. Criterion D states that where relevant policies are out of date at the time of making the decision then the Local Authority will grant permission unless material considerations indicate otherwise - taking into account whether any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

Policy SWDP1 generally mirrors the Framework, where the approach to decision-taking in this context is further explained in paragraph 11 of the Framework– this is often referred to as the ‘tilted balance’, to be applied where the most important policies for determining the application are out of date (as is the case here).

- **SWDP2 – Development Strategy and Settlement Hierarchy**

This important policy sets out principles on which the Development Strategy is based. This includes providing sufficient housing to meet objectively assessed needs to 2030, safeguarding

and wherever possible enhancing open countryside, and focusing most development on urban areas, where both housing needs and accessibility to lower cost public services are greatest.

The policy defines the open countryside as land beyond any development boundary, where development will be “strictly controlled” and will be limited to specific uses, which does not include open market housing. To the extent that the site falls outside of the development boundary and is not a proposed use permissible, the proposals are contrary to Policy SWDP 2.

The strict control of development in open countryside and the requirement to “safeguard” open countryside is somewhat at odds with the Framework which instead requires policies and decisions to enhance the natural environment by “recognising” the intrinsic character and beauty of the countryside. That said, the application site is situated outside the development boundary as defined by SWDP2 and therefore, for planning policy purposes, lies in the “open countryside”.

Policy SWDP2 also sets out a Settlement Hierarchy. Fernhill Heath is a Category 2 sustainable settlement¹ where the Policy states these villages provide varying ranges of local services and facilities with the larger settlements generally tending to provide the greatest range. Their role is predominantly aimed at meeting local market and affordable housing needs alongside limited employment for local needs. A number of housing sites of an appropriate scale were allocated in such settlements. Fernhill Heath is a large settlement and the site has appropriate access to services and facilities, good sustainable access to other settlements with a greater range of facilities and services and this is common ground with the Council. The proposals raise no conflict with the locational strategy of the Plan and settlement hierarchy at the scale of development proposed and again this is common ground, addressing one of main matters identified by the Inspector in the case of this appeal.

- **NCH1A – New Residential Development**

Policy NCH1A of the NCNP in respect of New Residential Development states that “Additional new housing provision within the existing development boundary of Fernhill Heath will be allowed provided that it accords with other relevant policies of the NCNP and the SWDP”. It also adds that “Proposals for further new residential development beyond the existing development boundaries of Worcester and Fernhill Heath will be resisted, unless it is demonstrated that there is not a 5-year supply of deliverable housing sites and that no other policies within the NCNP and SWDP would preclude development on the site such as Green Belt, Local Green Space or locations at risk of flooding”. The Council cannot demonstrate a 5 year supply of housing and site is not within an area defined as Green Belt, Local Green Space or at Flood Risk. The Policy would

¹ Whilst a Category 2 settlement within the current SWDP, with reference to the factual evidence base which is supporting the emerging SWDP Review (CD 63 – Village Facilities and Rural Transport Study), Fernhill Heath has been re-assessed and is one of 6 settlements which are to be up rated to Category 1 status following a comparative review of services originally assessed in 2012 for the current SWDP, to a new assessment in 2019 for the SWDP Review.

suggest that the proposals for this site outside the development boundary would not therefore be resisted merely on the basis that they lie outside the Development Boundary.

- 4.10 A summary review of all Policy as above is set out in Appendix 1 to my evidence showing how the proposals have sought to address and comply with all policy provisions of the Plan.

North Claines Neighbourhood Plan (2017)

- 4.11 The North Claines Neighbourhood Plan (NCNP) was adopted in 2017 (CD 14). Although it too is over 5 years old, it is the most recent part of the Development Plan. The NCNP provides Development Plan policy with a specific focus on North Claines, which includes Fernhill Heath. The Plan reviews and explains the historic development of the Parish and its character and features today. It sets out a comprehensive explanation of the environmental considerations affecting the Parish, including highlighting flood zones, landscape character areas, transport infrastructure, Green Belt, nature and heritage assets.

- 4.12 Although not allocated for development in the Neighbourhood Plan and outside the defined Development Boundary, the Neighbourhood Plan recognises the need to allow more flexibility for new housing developments outside of such development boundaries when the supply of land for housing falls below 5 years. In principle therefore, the proposals raise no conflict with Neighbourhood Plan policy just because they are not allocated and outside of the Development Boundary in this context.

Emerging South Worcestershire Development Plan Review

- 4.13 The South Worcestershire Councils commenced a Review of the adopted SWDP in 2017, in line with the Government requirement for Development Plans to be updated every five years. The Review will provide an updated Plan for the period to 2041 and will update the existing SWDP where necessary and allocate additional sites to provide for development needs over this period.
- 4.14 The SWDP Review has completed two stages of consultation to date, including its final Regulation 19 Publication consultation which was undertaken at the end of 2022. The plan has been submitted for Examination but there has been some considerable delay to the start of the Examination Hearing sessions as additional information and evidence has been requested by the Inspectors. It is still some way from adoption, noting there are a considerable number of objections to the plan which are to be examined. It is not capable of being given any weight in the determination of this appeal.
- 4.15 The SWDP Review Publication (Regulation 19) Document (published in November 2022) sets out a requirement to deliver 26,360 new additional dwellings within South Worcestershire over the revised plan period², which the Applicant's proposal of up to 130 dwellings can support. The appellant has duly made

² Transitional arrangements for Local Plans in the emerging Draft NPPF may mean for Wychavon (where the SWDP Review is at Examination, but its requirement is over 200 dpa below the new LHN), the need to address the shortfall in provision to the LHN at the earliest opportunity (para 227) with a further review of the Plan, if they proceed with the Examination and to adoption.

objections to the plan including in respect of the site specifically as well as more generally the need and requirement for housing in the emerging Plan.

National Planning Policy Framework (2023)

- 4.16 I provide a summary review of principally relevant Government Policy within the Framework below to demonstrate how the proposals generally comply with the Framework. A summary review is also contained in Appendix 1 which shows how the proposals accord with the Framework as a whole.
- 4.17 The NPPF was updated as recently as December 2023. This is noteworthy as some of its provisions are subject to transitional arrangements including for applications such as this which were submitted before the new Framework was published. This includes for example paragraph 76 and 226 (noting FN's 8 and 79 in particular) in respect of the requirement to demonstrate a minimum supply of land for housing.
- 4.18 At the heart of the NPPF is the "presumption in favour of sustainable development". Paragraph 8 sets out that to achieve sustainable development, there are three overarching objectives which need to be pursued in mutually supportive ways. These are the economic, social and environmental objectives. I have set out in Section 5 of my evidence how the proposal meets each of these overarching objectives to achieve sustainable development and in doing so will result in significant and demonstrable benefits far outweighing any harm arising from the scheme.
- 4.19 In respect of policy for housing, paragraph 60 of the NPPF provides support for the Government's objective of significantly boosting the supply of homes. In doing so, the NPPF sets out that it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.
- 4.20 Paragraph 63 sets out that the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies and paragraph 64 says where a need for affordable housing is identified, planning policies should specify the type of affordable housing required and expect it to be met on site in the first instance. The proposal here includes provision of 40% affordable housing which is compliant with Development Plan policy SWDP15.
- 4.21 The appeal proposals will contribute towards housing needs of the District meeting the Government's objective to boost significantly the supply of market and affordable homes and in an area where there is a significant shortage of both.
- 4.22 The NPPF states that good design is a "key aspect of sustainable development" (paragraph 131). Paragraph 135 sets out that planning policies and decisions should (inter alia) ensure that developments function well, are sympathetic to local character and history (including the surrounding built environment and landscape setting), optimise the potential of a site to accommodate an appropriate amount and mix of development (including green and other public space) and create places that are safe, inclusive and accessible and which promote health and well-being.

- 4.23 The appeal proposals are in outline with all matters reserved save for details of the main site access. The Design and Access Statement and Landscape and Visual Impact Assessment demonstrate how the site will deliver a high quality sustainable residential development that is sympathetic to its surrounding character.
- 4.24 The proposals have taken into account constraints and opportunities presented by the site and consideration has been given to achieve a sensitive integration between the proposed development and existing settlement. The appeal site is capable of accommodating up to 130 dwellings and access, green infrastructure, open space and play provision and there are no issues which would prevent the development of the site as proposed and which cannot be resolved through careful consideration of Reserved Matters or addressed by planning condition.
- 4.25 Paragraph 96 of the NPPF promotes healthy, inclusive and safe places including through the provision of Green Infrastructure. The Design and Access Statement submitted with the application sets out that a significant proportion of the site will be set out as Green Infrastructure.
- 4.26 Whilst details of the Green Infrastructure scheme will be given consideration through Reserved Matters the outline proposals are able to demonstrate biodiversity gains as required to comply with policy. A range of functions and provision including Public Open Space, Recreation and Play (including a new play space for children and new recreational footways), retention and enhancement of trees and hedgerows and a Sustainable Drainage System (SUDS) are initially proposed to be provided which are, in principle, capable of demonstrating the required gains.
- 4.27 Paragraph 180 of the NPPF states that the planning system should contribute to and enhance the natural and local environment by (inter alia) protecting and enhancing valued landscapes (in a manner commensurate with their statutory status or identified quality in the development plan) and recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland.
- 4.28 Mr Lishman’s evidence confirms that the site will not result in the loss of important landscape features or a highly sensitive or valued landscape. Indeed, the proposals will retain and enhance features of some arboricultural and landscape value such as trees and hedgerows. Wider consideration of landscape matters, in the context of the need to recognise the intrinsic character and beauty of the countryside are addressed further in Mr Lishman’s evidence and weighed in the planning balance later in my evidence.
- 4.29 Paragraph 205 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 208 goes on to state that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. I undertake this balancing exercise in my evidence here.

4.30 Paragraph 55 to 58 of the NPPF restate previous policy and guidance on conditions and obligations and Community Infrastructure Levy charges, emphasising their impact on viability. Footnote 23 of the NPPF refers to legislative requirement for applicants to provide their written agreement to the imposition of any pre-commencement conditions.

4.31 The appellant has worked with the Council to agree a list of suggested conditions. A complete planning obligation will also be submitted to the Inquiry to provide for the necessary community infrastructure.

Written Ministerial Statement (WMS) and Revised NPPF

4.32 A new Government was elected in July 2024 with a mandate for planning reform to deliver significantly more homes, linked to promoting national economic growth.

4.33 Reforms to the planning system have been an early priority for the new Government. Immediately upon coming to power it proposed changes to the NPPF, commenced a consultation on its proposed revisions and these changes are expected to be in force within a matter of months.

4.34 A Written Material Statement was given to Parliament on the 30th July 2024 entitled “Building the Homes We Need” by the Deputy Prime Minister and Secretary of State for Housing, Communities and Local Government. Paragraph 6 of the current NPPF states **“Other statements of government policy may be material when preparing plans or deciding applications, such as relevant Written Ministerial Statements”**. Self-evident from the WMS is the reaffirmation of **“...the most acute housing crisis in living memory. Home ownership is out of reach for too many; the shortage of houses drives high rents; and too many are left without access to a safe and secure home.”**

4.35 However, the link to economic growth is also part of the context to the Statement which highlights that **“sustained economic growth is the only route to improving the prosperity of our country and the living standards of working people. Our approach to delivering this growth will focus on three pillars; stability, investment and reform. But this growth must also be generated for everyone, everywhere across the country – and so nowhere is decisive reform needed more urgently than in housing.”**

4.36 These statements speak directly to the benefits to be given to new housing in the overall planning balance and the economic benefits to the economy which new housing brings. The message that this Country needs more homes, with everyone, everywhere across the Country to play their part in order to bring about economic growth, could hardly have been more strongly put.

4.37 The WMS sets out some key changes to planning policy including changes to the approach to Green Belt policy, opening up delivery in such locations where Local Planning Authorities are under performing in the supply of housing. Although proposed changes to Green Belt are not directly relevant to this appeal, such radical proposals do serve to underscore how serious the Government is about ensuring that sufficient land is released to meet minimum housing targets. What is of direct relevance here is where the WMS includes:

- **Mandating a new standard method for calculating housing need, noting the current standard method is not fit for purpose.**
- **A new standard method which will raise the overall level of the national target for housing from circa 300,000 to 370,000 new dwellings per annum³, providing a stable and balanced approach to new housing growth.**

4.38 For Wychavon, this will mean a significant increase in the calculation of local housing need (LHN) where under the current standard method (described as not fit for purpose), local housing need amounts to 486 dwelling per annum and the new local housing need calculation would see a 97% increase to 959 dwellings per annum. The introduction of the new standard method is a clear intention of the WMS.

4.39 For Wychavon, it will need to find many more suitable sites for housing, including in the short term to boost supply to meet the minimum housing supply, but also longer term to meet the housing needs through an updated Development Plan.

4.40 Directly linked to the WMS is the draft NPPF which is on consultation until late September 2024. The Government has indicated its intention to consider representations on the changes and publish the new NPPF as soon as possible, likely later in the Autumn 2024. The changes to the NPPF are set out as ‘tracked changes’ to the document, with some of greater relevance to this appeal than others, but noting the following;

- **Para 11(d) is amended to change the definition of out of date policies to those for the supply of land. The FN states this includes Policies which set out the overall requirement for housing.**
- **The requirement is now to meet all of an areas’ identified housing need, not merely “as much as possible” (para 61).**
- **The minimum number of homes is LHN (para 62) (noting the new LHN mentioned in WMS).**
- **5 year supply requirement not 4 against LHN where the plan is over 5 years old as is the case in Wychavon (para 76) including the re-introduction of buffers in 5 year requirement to support delivery.**

4.41 Transitional arrangements for Local Plans which mean for Wychavon (where the SWDP Review is at Examination, but its requirement is over 200 dpa below the new LHN), the need to address the shortfall in provision to the LHN at the earliest opportunity (para 227) if they proceed with the Examination and to adoption.

³ This is also confirmed in the Minister of State Matthew Pennycooks letter to the Housing Industry Stakeholders (30th July 2024) (CD 12), which also extensively explains the proposed planning reforms and new expected approach.

- 4.42 The changes as above for Wychavon are significant. Its policy requirement for housing is out of date. The emerging Local Plan Review is not going to meet the new LHN and if it progresses, will need to be reviewed at the earliest opportunity.
- 4.43 The changes to LHN and the re-introduction of the minimum 5 year supply requirement will have implications for Wychavon District. The Council suggest a current supply of 2.78 years, or 1,355 dwellings against a 5 year requirement of 2,440 dwellings. The new LHN 5 year supply requirement including a 5% buffer would be 5,035 dwellings. Even using the Council's current estimate of supply, this would equate to a supply of 1.35 years, or a shortfall of some 3,680 dwellings.

5. PLANNING CONSIDERATIONS AND BALANCE

- 5.1 The previous sections of my evidence have set out details about the site, the proposed development and its planning policy context starting with the Development Plan but also in the context of the NPPF.
- 5.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The most important material consideration here is the NPPF. It sets out a presumption in favour of sustainable development and confirms in paragraph 11 that for decision taking, this means approving development proposals which accord with the Development Plan without delay. It also sets out the operation of a tilted planning balance at paragraph 11, which I believe is also engaged in the matter of this appeal because the Council cannot demonstrate a 4 year supply of housing.
- 5.3 In my view, the proposed development here is being brought forward in line with the provisions of Development Plan policy including the Policy arrangements set out in Neighbourhood Plan Policy NCH1A where the Council cannot demonstrate a 5 year supply of land for housing, and SWDP1 where policy is out of date. The benefits of granting planning permission here are considerable and none of the adverse impacts would individually or collectively outweigh the benefits, let alone significantly or demonstrably so. I have assessed the Framework policy as a whole⁴ and consider the proposals align strongly and positively with the Framework.
- 5.4 The proposals adhere closely to the definition of sustainable development within the Framework. Paragraph 8 of the Framework states that "**achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives)**". These are, firstly, an economic role whereby it supports growth and innovation and contributes to a strong, responsive and competitive economy. The second role is a social one where it supports "**strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations**". The third role is an environmental one where it contributes to protecting and enhancing the natural, built and historic environment.
- 5.5 The site is not allocated for housing development in either the South Worcestershire Development Plan or the North Claines Neighbourhood Plan and is located outside of the development boundary for Fernhill Heath in both Plans. However, in circumstances where the Council cannot demonstrate a 5 year supply of land for housing, the NP confirms that proposals outside the development boundary would not be resisted, where, as in the case here, they do not relate to Green Belt, Local Green Space or Flood Risk areas. The Key Diagram Figure 5.5 in the NP (CD 14) clearly defines the extent of Green Belt which generally encircles

⁴ See Section 4 above and Appendix 1

Fernhill Heath to the south, east and west. It also identifies specific sites as Local Green Space on the Key Diagram. Flood Risk areas are shown in the NP at Figure 3.3. These are the key policies of the Neighbourhood Plan, beyond Development Boundaries, which apply policies of restriction on housing (as stated in the policy “preclude development”) and it is of important relevance that the site doesn’t fall within any of these designations⁵. In this context, there is no conflict or resistance to development of housing on this site within the Neighbourhood Plan because of the site’s location outside of the Development Boundary.

- 5.6 The site is also outside of the development boundary under Policy SWDP2 of the SWDP, however that is a policy which is out of date because of the shortfall in housing delivery, is constraining housing supply contrary to policy objectives, and must be attributed little weight.
- 5.7 Policy SWDP 1 Criterion D states that where relevant policies are out of date at the time of making the decision then the Local Authority will grant permission unless material considerations indicate otherwise - taking into account whether any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
- 5.8 Policy SWDP1 generally mirrors the Framework, where the approach to decision-taking in this context is further explained in paragraph 11 of the Framework. It states that “**where policies which are most important for determining the appeal are out of date, granting planning permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework as a whole.**” It is therefore necessary to consider whether the adverse impacts of this development “**significantly and demonstrably**” outweigh the benefits. In other words, for planning permission to be refused the adverse impacts must not only outweigh the benefits, this must “**significantly and demonstrably**” be the case. Adverse impacts can outweigh benefits and planning permission can still be granted as long as they do not significantly and demonstrably outweigh the benefits – this is often referred to as the ‘tilted balance’, to be applied where the most important policies for determining the application are out of date (as is the case here).
- 5.9 Having regard to the above, in line with SWDP 1 and the tilted balance set out within paragraph 11 of the Framework, the proposed development here should be seen as acceptable unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. Policy SWDP 2 is a policy which, in the absence of the required housing supply, is out of date. As stated it is constraining the supply of land for housing if strictly applied. Any conflict with SWDP 2 should, in my view, be given less weight in these circumstances and the site’s location outside of the defined development boundary shouldn’t be necessarily prohibitive to planning permission, as recognised within the Development Plan itself via the NP at Policy NCH1A.

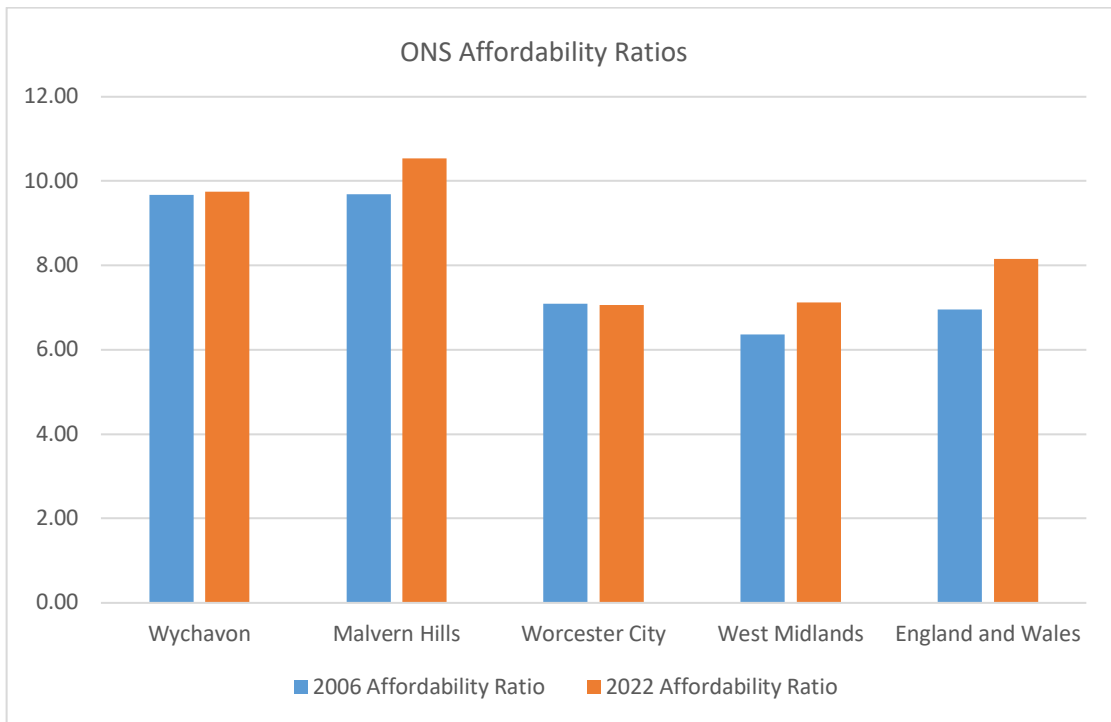
⁵ In addition, where the NP policy refers to policies of the SWDP that may “preclude development” of the site, there are equally no such policies. Beyond any conflict with SWDP 2 and its similar development boundary, the proposals comply with policy of the SWDP as a whole.

Housing Land Supply and Need for More Housing

- 5.10 As a development for housing, the proposals are put forward in the context of the Framework's aim to significantly boost the supply of new homes. The Framework states that it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.
- 5.11 The benefit of and weight to be given to proposals for more housing have, in my view, been further endorsed by the July 2024 Written Material Statement where it highlights the most acute housing crisis in living memory where home ownership is out of reach for too many; the shortage of houses drives high rents; and too many are left without access to a safe and secure home linking housing delivery to the need for economic growth. The Country needs more homes, with everyone, everywhere across the Country to play their part in order to bring about economic growth.
- 5.12 Wychavon cannot meet the minimum housing land supply required within the Framework. The latest Housing Land Supply Report published in April 2024 by the Council (CD 9) shows a supply of only 2.78 years. The shortfall is significant. It suggests that some 1,085 dwellings are not going to be delivered. If some 40% of those were to be affordable homes, then this is around 400 affordable homes that should come forward. These needs only increase in the emerging new NPPF changes with the calculation of Local Housing Need for Wychavon significantly increases. Based on current supply and the expected updated in LHN, shortfalls in supply are only going to get worse.
- 5.13 The affordability of homes in the District is relevant here and helpful context where the proposal here provide 40% of the proposed dwellings as affordable including most within the Social Rented tenure⁶. The District has a poor affordability ratio, second of the three South Worcestershire authorities⁷. In fact, Wychavon affordability ratios are significantly above the Worcestershire, West Midlands and national averages (see below) and have not improved over the whole of the SWDP plan period since 2006.

⁶ The s106 for the proposals require 40% of the dwellings to be Affordable Housing Dwellings and has a tenure split which includes the required 25% of the proposed affordable dwellings as First Homes (30% discount to market), but beyond that includes 69% of the affordable dwellings as Social Rent and 6% as Shared Ownership

⁷ Housing Affordability in England and Wales: 2022 published by the ONS in March 2023



- 5.14 The Council's Strategic Housing Market Assessment (Update 2021) for the South Worcestershire area includes a calculation of affordable housing need, identifying a gross annual need of 2,518 and after taking into account supply, a net need of 906 affordable dwellings each year.
- 5.15 In addition to the above, the need for self-build plots in the District is also relevant here and helpful context where the proposal have the potential to provide 5% of the development as self-build plots⁸, notwithstanding there is no policy requirement to do so⁹. The Self-Build and Custom Housebuilding Act 2015 and subsequent Self-Build and Custom Housebuilding (Register) Regulations 2016 require authorities to maintain a register of those who have expressed an interest in buying serviced plots. The Act places LPAs under a duty to have regard to these Registers in carrying out their planning function.
- 5.16 The Act also requires LPAs to grant sufficient development permissions for serviced plots of land to meet the demand arising from their Self-Build Register and the PPG identifies that, at the end of each base period, LPAs have 3 years in which to grant permission for an equivalent number of plots of land, which are suitable for self-build and custom housebuilding, as there are entries for that base period.
- 5.17 The Council have produced a Wychavon District Self Build and Custom Housebuilding Register – Progress Report (Updated April 2024) (CD 53). It confirms that at the start of the Base Period (31st October 2022), there were a total of 222 individuals on the self build register, since which a net addition 33 individuals have registered, leaving a total of 293 individuals on the register by the 30th October 2023. Supply to the 30th October 2023 is currently 82 plots, which whilst not meeting the full need, falls only 1 plot short of the base period need of 83 plots to 30th October 2024. The need increases to 31st October 2026, where 121 plots

⁸ The proposed s106 includes provisions for Self and Custom Build within the development, with arrangements for marketing and disposal.

⁹ The emerging SWDP Review does have a policy (SWDPR 16) which requires 5% of dwellings on sites of more than 20 dwellings to be for sale as serviced self build or custom build plots. This is expected to be the future mechanism by which this housing need is proposed to be met.

are required, with a further 38 permissions for new plots required to serve the need to October 2026 (the period within which this site could contribute).

5.18 The proposals will therefore provide for very significant benefits in terms of the provision of housing noting;

- The Council cannot demonstrate the minimum supply of housing required to meet 4 years of housing need.
- Housing needs are not being met, and the shortfall is significant.
- The calculation of Local Housing Need is likely to be significantly higher in Wychavon in the near future, and potential changes to the NPPF will mean a 5 year supply requirement will be the minimum.
- Affordable housing needs are significant and there is evidence of a significant annual need.
- There is a need for more Self Build Plots, no current policy mechanism to secure them and this development will contribute to the supply.

The above is weighed later in my planning balance.

Conserving the natural environment

5.19 Section 15 of the Framework relates to Conserving and Enhancing the Natural Environment. Paragraph 180 identifies how the planning system should contribute to and enhance the natural and local environment by (inter alia) protecting and enhancing valued landscapes (in a manner commensurate with their statutory status or identified quality in the development plan) and recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland.

5.20 Most development proposals are likely to have some adverse impacts. This includes the obvious loss of a greenfield site which has not been previously developed and is currently part of the countryside. This in my view should be given some weight in the context of the Framework's requirement to recognise the countryside's intrinsic character and beauty.

5.21 I note in this regard the landscape evidence of Mr Lishman on behalf of the appellant. He explains that the appeal site and surrounding area are not covered by any designations for landscape character, value or quality, and does not form part of a valued landscape in NPPF paragraph 170a terms. While the character of the appeal site will change and result in the loss of arable fields to an area of housing and open space (an inevitable consequence of developing any green field agricultural field for residential use) the proposals include for the retention and enhancement of the majority of its existing trees and hedgerows and provides environmental benefits through the provision of formal and informal open space. Mr Lishman concludes that there will be no significant effects on the landscape/townscape character of the area around the appeal site, and that the proposed development forms a logical expansion to Fernhill Heath which will result in

beneficial effects on the structural vegetation, ecological and recreational value of the appeal site. He states and shows in his evidence that the landscape strategy for the site would help assimilate the proposed development into the landscape and create new and characteristic landscape features, accepting that there would be a marked change to land use and associated character. He explains that the proposed planting would provide a 'softer' urban edge in comparison to the existing edge conditions along the Suffolk Way Development. The overall landscape context would remain of a settlement edge, adjoining agricultural land uses and set within a framework of trees and hedgerows. The permanent effects would be -small scale; low magnitude; and Slight Neutral. The inevitable landscape impacts of the development of a current greenfield site in the context of this site's characteristics and landscape implications should not weigh heavily in the planning balance. Nor should the proposals be seen to conflict with SWDP 25 which relates to landscape character, in circumstances where the proposals have been informed by a detailed landscape appraisal, and have taken into account the latest landscape character assessment as explained by Mr Lishman. The proposals are appropriate to and integrate with the character of the landscape setting.

- 5.22 The SWDP includes policy SWDP5 relating to Green Infrastructure. The policy requires housing developments on greenfield sites exceeding 1 hectare (gross) to provide 40% Green Infrastructure, with the precise form depending on local circumstances and the priorities of the Worcestershire Green Infrastructure Strategy. The Illustrative Layout has been based around a provision of at least 40% green infrastructure and subject to Reserved Matters, the development can meet policy in this regard.
- 5.23 Policy SWDP 13 states that windfall developments which would result in the loss of more than 2 ha of Best and Most Versatile (BMV) agricultural land will be required to demonstrate that the proposals cannot reasonably be accommodated on non-BMV and that the benefits of the development significantly outweigh the loss¹⁰. Paragraph 180 (part b) of the Framework seeks to ensure that planning decisions “**recognise the economic and other benefits of the best and most versatile agricultural land**”. Footnote 62 suggests that areas of poorer quality land should be preferred to those of higher quality where “**significant development of agricultural land is demonstrated to be necessary**” and the availability of land used for food production should be considered alongside other policies of the Framework when deciding what sites are most appropriate for development.
- 5.24 The appellant provided the LPA with an Agricultural Land Classification and Considerations Report (CD 23). The proposals will result in the loss of 5.5ha of Best and Most Versatile (BMV) agricultural land. 2.4ha of the site is not BMV. The loss of this land would not fragment any farm holding, nor unduly affect the viable operation of any farm. Whilst the land is currently in agricultural use and some is BMV, the relatively small loss of BMV land should not, as is common ground, be a reason of itself to refuse planning permission. In my view it should not weigh heavily against the proposals. This noting under the Town and Country Planning (Development Management Procedure) (England) Order 2015 (DMPO) Natural England is a statutory consultee on development that would lead to the loss of over 20ha of 'best and most versatile' agricultural

¹⁰ I explain in my summary table in Appendix 1 that I don't consider Policy SWDP 13 and its approach to be precisely in accordance with the Framework where it seeks to recognise the economic and other benefits of the best and most versatile agricultural land (para 180).

land (land graded as 1, 2 and 3a in the Agricultural Land Classification (ALC) system), where this is not in accordance with an approved plan. The scale of loss here falls well short of that scale.

- 5.25 BMV is somewhat prevalent in South Worcestershire and given housing needs, it can be noted that many sites within the Council's supply or indeed as allocated in the SWDP¹¹ inevitably include BMV, in significantly greater proportions than relates to this site. In this regard the Council's emerging plan (CD 5) has to also address BMV but confirms that if the plans objectives (which includes meeting housing needs) are to be met, agricultural land will necessarily be lost to development.
- 5.26 The proposed development is submitted on the basis that it comprises a sustainably located site on the edge of an existing settlement in order to help address housing needs which are not currently otherwise being met. The need to develop on greenfield land on the edge of settlements in sustainable locations is most likely on agricultural land as a consequence. Land on the edge of settlements in South Worcestershire is characteristically similar to the appeal site, including pockets of BMV such that the modest loss of some areas of BMV land is inevitable in order to meet needs. It can be noted for example that the Taylor Wimpey development immediately to the south of the site included BMV land and was still granted planning permission given housing needs. The William Davis application on land immediately to the south west of the appeal site has also recently been the subject of housing proposals and is Grade 2 and 3a agricultural land. That site was chosen as an allocation to be included in the emerging SWDP Review, yet BMV land didn't prevent this. It also didn't prevent officers from recommending approval to the application when considered at planning committee earlier this year (CD 56), nor was a reason why the application was deferred. The delivery of this needed housing is a significant benefit of the proposed development to weigh against the loss of this agricultural land, even recognising its economic and other benefits. In the absence of other non-BMV alternatives to fully meet needs, the proposals here raise no conflict with SWPD 13.
- 5.27 The scheme will result in opportunities for enhancement to biodiversity (as acknowledged in the SOCG) and will provide further environmental benefits associated with provision of green infrastructure and open space. Much of this space will be made publicly available which will provide further social benefits of the proposed development.
- 5.28 Section 15, paragraph 180, as well as paragraphs 185 through 188 of the Framework sets out that planning policies and decisions should contribute to and enhance the natural and local environment by minimising impacts on biodiversity and providing net gains in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures. The degree to which designated sites receive consideration under the planning system and legislative protection depends on the designation itself and its level of importance. This ranges from sites of international importance protected by UK

¹¹ Within the SWDP, the principal allocations forming the main urban extensions around Worcester all (with reference to the Posy 1988 Agricultural Land grade Maps shown on Magic Maps) comprise significant proportions of BMV, with Allocation 45/1 South Worcester in large parts Grade 3a, 45/2 West Worcester including significant areas of BMV most of which is Grade 2. In the emerging SWDP Review, both the new settlement proposals at Worcestershire Parkway and Throckmorton contain large swathes of land within Grade 3a

legislation that transposes European directives, to protection under UK legislation or national and local planning policy.

- 5.29 The ecological implications of the proposed development are set out in the supporting ecology report which is supported by extensive site surveys. This confirms the proposal would not have any impact on any designated sites. None of the Local Wildlife Sites are within or adjacent to the Site, the closest being 290m from the Site. It recommends mitigation measures to overcome potential ecological constraints. The supporting Biodiversity Metric Report has confirmed the proposed development would result in significant biodiversity net gain for habitats on the Site. The proposals commit to the provision of a net gain to biodiversity. The gain can be fully delivered on site. Whilst not strictly required by national or local planning policy or by legal mechanisms, the commitment to a 10% net gain in biodiversity is a positive benefit of the development¹². This 40% of the site dedicated to Green Infrastructure includes proposed and managed areas of orchard, the drainage balancing facility which has been designed to maximise the biodiversity value through the creation of wetland and species rich grassland, areas of open species rich grassland and retained mature trees. Additional ecological enhancement proposed within the scheme includes the provision of bat boxes either on retained mature trees or new residential dwellings and the implementation of a sensitive lighting scheme throughout the development and on the new dwellings to ensure the low levels of bat activity were not affected by the proposals. The long-term management of the habitat retained and created is a positive benefit of the development and the overall biodiversity net gain here goes well above applicable minimum policy requirements.

Heritage

- 5.30 Legislation relating to the built historic environment is primarily set out within the Planning (Listed Buildings and Conservation Areas) Act 1990 which provides statutory protection for Listed Buildings and Conservation Areas. Section 66(1) requires that in considering whether to grant planning permission for development which affects a listed building or its setting, the decision maker, shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 5.31 Policy SWDP24 states that development proposals affecting heritage assets will be considered in accordance with the Framework and relevant legislation. Section 16 of the NPPF relates to 'Conserving and enhancing the historic environment'. Paragraph 201 states that Local Planning Authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and

¹² The commitment to a 10% Biodiversity Net Gain is a particular benefit in this case of additional weight as it is not a requirement of statute which applies to this site, this noting NRS Saredon Aggregates Ltd The Secretary of State and Worcestershire County Council [2023] EWHC 2795 (Admin) which found an Inspector erred in law by not attaching weight to biodiversity net gain where the statutory provisions for BNG had not come into force and did not yet apply to that proposal.

any aspect of the proposal. Paragraph 208 states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

5.32 A Heritage Report was submitted with the application (CD 24). An agreed Statement on Heritage has also been prepared (CD 46). No built heritage assets other than the setting of the Grade II listed Tappenhill Farmhouse would be adversely affected by the proposed development. In that regard, considering the physical form of the asset will not be altered, and neither will those areas of the setting of the asset which make the greatest contribution to the significance of the asset through setting, comprising the curtilage, farm complex and land which has the strongest visible connection with the asset, the proposed scheme is anticipated to result in less than substantial harm at the low end of the spectrum to the heritage significance of Tappenhill Farmhouse. The harm to the heritage significance of Tappenhill Farmhouse would be less than substantial and at the low end of the spectrum. Importantly, the LPA agrees that this level of harm is outweighed by the public benefits of the proposal.

5.33 I have the above in mind when undertaking my planning balance below.

Other Potential Development Benefits, Impacts and the Planning Balance

5.34 In addition to the above which generally covers the main matters in this appeal, there are some other matters which are also important to review and consider as part of the proposals.

5.35 **Economic Benefits** – The NPPF is particularly clear on the importance of economic benefits arising from new development highlighting paragraph 38 which states that Local Planning Authorities should approach decisions on proposed development in a positive and creative way and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.

5.36 In particular paragraph 85 states that planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. It states that significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. The latest Written Ministerial Statement (July 2024) has highlighted the link between planning and economic growth with a role for everyone, everywhere across the country – most urgently in housing.

5.37 The Homes Builders Federation calculator of the economic effects of housing using their research “The Economic Benefits of House Building in England and Wales (Lichfield’s, July 2018) calculates that a development of 130 dwellings could support the employment of 403 people, providing 4 apprentices, graduate/trainees. It could generate £1.56M in tax revenue, including £146k in Council Tax revenue. The development could give rise to a construction spend of over £30M, contributing to GDP. The population of the development is expected to be over 300. The increase in local population will add to local spend. These

economic benefits are in addition to contributions to the New Homes Bonus. All suggests considerable economic benefits will arise from the development and this in accordance with the Framework and having regard to the WMS, should attract significant weight in the planning balance.

- 5.38 **Highways and Accessibility** - Policy SWDP 4 states that proposals must demonstrate that the layout of development will minimise demand for travel and they offer genuinely sustainable travel choices. Paragraphs 103 and 108 of the NPPF states that the planning system should actively manage patterns of growth and appropriate opportunities to promote sustainable transport modes can be or have been taken up, given the type of development and its location. The Framework paragraph 114 states that development should provide appropriate opportunities to promote sustainable transport modes, ensure safe and suitable access to the site can be achieved for all users, enable the design of streets parking areas and other transport elements to be provided in accordance with a national design guide and ensure that any significant impacts from the development on the transport network are on highway safety can be mitigated cost effectively to an acceptable degree. Paragraph 115 states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe.
- 5.39 Fernhill Heath is a suitable settlement to accommodate further growth, has a good range of services and facilities and occupies a unique position, whereby with its location near to Worcester and Droitwich it gains access to their facilities too.
- 5.40 Fernhill Heath is well connected to public transport and this site is accessible within the settlement to a range of services with pedestrian and cycle connectivity. The proposal represents a development of a scale and size that is suited to Fernhill Heath.
- 5.41 Worcestershire County Council as Highway Authority have raised no objection to the proposed development. It is no part of the Council's case that accessibility, sustainable travel or highway safety are matters in dispute. A Statement of Common Ground has been prepared in relation to highways with the County Council. The LPA have highlighted no difference in view to that stated in Common Ground with WCC Highways. It confirms that the traffic surveys undertaken by the appellant are representative of the highway network conditions. Further it confirmed that there was no collision or highway safety history in the vicinity of the appeal site which gives rise to any significance nor demonstrates any discernible patterns or trends which could require further study or mitigation measures. It also confirms that the appeal site benefits from being in proximity to a number of services, facilities and amenities such that future residents will therefore be afforded the opportunity to use non car modes as travel's genuine alternatives. Bus services are available on Dilmore Ave as well as situated along the A38 Droitwich Rd to promote the use of public transport. In addition, the appeal site can be suitably and safely accessed and egressed via the priority junction proposed onto Dilmore lane.
- 5.42 **Energy** - Policy SWDP27 requires that all development over 100sqm provide at least 10% of predicted energy requirements through using renewable or low carbon energy sources and the way the development

readily achieves that requirement is set out in the Energy Statement, principally through the use of Air Sourced Heat Pumps, Waste Water Heat Recovery and a robust approach to building fabric design and insulation. The proposed strategy will provide a 41.24% carbon reduction over a development built to comply with the CO₂ targets under the latest revision of the Building Regulations, Part L1 2021. This also represents a 60.04% energy demand reduction.

- 5.43 **Flood Risk and Drainage** - the Framework (paragraphs 165 to 175) requires that consideration is given to the potential impact of flooding on new development whilst also ensuring that flood risk is not increased elsewhere. It also sets out a sequential risk based approach to the location of development to steer development away from areas at higher flood risk. Policy SWD28 requires development proposals to be sited in areas that are not susceptible to all forms of flooding. Policy SWDP29 requires development proposals to be accompanied by a water management statement demonstrating how surface water will be managed. The Flood Risk Assessment and Drainage Maintenance Plan demonstrate that the site is in Flood Zone 1, the lowest category of flood risk and is suitable for housing development. A drainage scheme incorporating SUDS is proposed to manage surface runoff from the development, comprising an attenuation basin designed to maintain run off at pre-development rates. Some additional planning benefits arise from the strategy here which also includes de-culverting with new open watercourse/swales included in the proposals. The LLFA confirm that they were “pleased to see new proposals will not build over the existing culvert and the culvert will be removed (daylighted). Flows from the pond to the watercourse will be conducted via a swale which is greatly appreciated, providing additional treatment, biodiversity and amenity value”.
- 5.44 **Archaeology** – Extensive investigations have been undertaken to evaluate the archaeological potential of the site, even at this outline planning stage. This has included an archaeological desk based assessment, geo-physical surveys as well as a scheme of archaeological trial trenching (CD’s 24, 25 and 34). Worcestershire County Council Archaeology were consulted as part of the planning application and raised no objection to the proposal subject to a conditional programme of archaeological works comprising the strip, map and sample excavation of the area shown to retain Iron Age and Romano-British evidence.
- 5.45 **Third Party Representations** - Representations have been made in respect of the proposed development by third parties at the application stage. This includes an objection from North Claines Parish Council in relation to traffic and access generally. A number of representations raising similar issues to the application stage have also been submitted in response to the appeal. They raise a number of issues many of which are addressed above but the issues raised are also addressed in summary within a table set out in Appendix 2; none can reasonably be sustained and none could in any way be described as significantly and demonstrably outweighing the benefits of the proposed development.

Heritage and Planning Balance¹³

- 5.46 In summary, therefore, there are a considerable number of positive benefits of granting planning permission in this case particularly given the need for more housing and lack of housing supply. There is also a considerable need for more affordable homes which are not being met and a need for self build home opportunities. In my judgement, these should be weighed very substantially in favour of the proposals in the planning balance.
- 5.47 In addition to the above there are substantial economic benefits which arise from the development, not least a significant gross development value, employment and significant expenditure into the economy. Substantial weight should be placed upon economic benefits particularly in the current economic climate.
- 5.48 Additional incidental benefits arise from the development too, and whilst more modestly weighted in the planning balance, they include the provision of new extensive areas of public open space, walking and recreation routes, play spaces and community orchard for example which are available to new and existing residents alike. I give these some minor weight in the planning balance.
- 5.49 The proposals will also provide for biodiversity gains which whilst expected by policy, are highly positive and whilst not applying to this development, are at levels which are now a statutory requirement and may not otherwise arise without the development. Daylighting of an existing culverted watercourse also has some benefit arising from the development. I also give these some moderate weight.
- 5.50 By contrast the adverse impacts in the case of this proposed development are more limited in my view. There is some moderate harm by the inevitable loss of currently open countryside which has some intrinsic character and beauty, but where the appellant's landscape evidence suggests the site has a limited visual envelope and the landscape principles within the proposals provide mitigation for landscape and visual effects.
- 5.51 The site is also agricultural land which has economic and other benefits, albeit not all of the site is best and most versatile, and the scale of loss is relatively modest, noting such land is prevalent in South Worcestershire and it is somewhat inevitable that some agricultural land loss is expected in promoting a sustainably located development on the edge of a settlement. I give this only minor weight against the proposals.
- 5.52 Additionally, there is less than substantial harm to the setting of heritage assets, a matter to be given considerable importance and weight in the context of the statutory duty set out within the Planning (Listed Buildings and Conservation Areas) Act 1990, albeit assessed at the low end of the less than substantial scale and therefore of moderate weight in my view.
- 5.53 Highway impacts are not severe, the site is sustainably located and the development promotes sustainable means of travel such that such impacts are at worst neutral, with some improvements facilitated by the

¹³ In my planning balance I use the terms substantial and significant as commensurate terms, with a weighting of neutral, minor, moderate, substantial/significant and very substantial/significant (for both benefits and harms)

development also likely to be of benefit to the wider local community. The proposals raise no other wider impacts in respect of other matters such as flood risk and drainage for example such that such matters are neutral in the planning balance.

5.54 In weighing solely the moderate heritage harm against all the benefits of the development, these readily outweigh the heritage harm, in my view, such that there is no conflict with the Development Plan, nor paragraph 202 of the Framework. It is common ground with the Council (CD 45) that the public benefits of the appeal proposal outweigh the less than substantial harm to the designated heritage asset. It is further agreed that the policies in the NPPF relating to designated heritage assets do not provide a clear reason for refusing the development proposed such that the presumption in favour of sustainable development (paragraph 11 d) ii) the tilted balance) remains engaged in this case.

5.55 In the overall planning balance, the sum total of harms identified equally do not outweigh the overall benefits in my view – they most certainly could not be described as significantly or demonstrably outweighing the benefits. The requirement of Policy SWDP1 are met as there are no adverse impacts which would significantly and demonstrably outweigh the benefits of the development. Where the tilted planning balance in paragraph 11 (d) (ii) of the Framework is also engaged here given that the Council cannot demonstrate a 4 year supply of land for housing, the balance is also in favour of granting planning permission.

5.56 In summary, therefore:

- The benefits of the scheme are cumulatively **very substantial** (in the case of market and affordable housing, as well as economic benefits, benefits that are **very substantial** in their own right) and include the sustainable delivery of both much needed open market and affordable housing as well as self build housing plots in a high quality development, well located in a suitable sustainable Village, positively related to the village itself and its services as well as sustainable access to other facilities; investment and support for economic growth and job creation (**substantial**); provision of new green space and play space (**minor**) with watercourse de-culverting (**minor**) landscape planting and biodiversity gains (**moderate**).
- The adverse impacts of the scheme are comparatively minor and include principally the limited and localised visual implications arising from the inevitable loss of some currently greenfield land which has a limited visual envelope with landscape mitigation (**moderate**) which was previously agricultural land (**minor**). Additionally, there is less than substantial harm to the setting of a heritage asset (low end of less than substantial), a matter to be given considerable importance and weight in the context of the statutory duty (**moderate**).
- In the overall planning balance, none of the impacts of the development to which **moderate/minor harm** arises, could be described as outweighing the benefits which include

individual **very substantial** benefits and cumulatively **very substantial** benefits – nevermind significantly or demonstrably so.

NPPF Definition of Sustainable Development

- 5.57 The proposals adhere closely to the definition of sustainable development within the Framework.
- 5.58 Paragraph 8 of the NPPF states that the three objectives "**are interdependent and need to be pursued in mutually supportive ways**". Paragraph 9 goes on to state that planning "**policies and decisions should play an active role in guiding development to sustainable solutions**".
- 5.59 In terms of the definition of sustainable development, the development accords with the economic objective of sustainable development in that it will contribute to a strong, responsive, and competitive economy providing significant jobs during the construction phase of the development. Further, the economic health and prosperity of the area and its community will also benefit because of increased expenditure from the residents of the proposed development.
- 5.60 The development accords with the social objective of sustainable development supporting a strong, vibrant, and healthy community, providing a range and choice of housing types and tenures in a high-quality environment, accessible to services and infrastructure. The proposal will provide significant new areas of public open space, including provision of a play area and community orchard.
- 5.61 The development accords with the environmental objective of sustainable development, protecting and enhancing the best of the local natural environment, enhancing biodiversity with the prudent use of resources, providing areas of new public open space and is mindful of climate change. The proposal also provides an opportunity to deliver additional landscaped planting and open space for enjoyment by existing and future residents.
- 5.62 The development has been designed to respond positively to good urban design principles such that the proposals can make a valuable contribution to the local environment. The application Site forms a logical and obvious location for future development, whilst green space is created towards the west of the Site, to protect any limited setting to Tapenhill Farm in this direction and retain the character of Dilmore Lane including the planting of an orchard to reflect historic local landscape patterns.
- 5.63 Paragraph 126 of the NPPF recognises the importance of good design. It states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Policy SDWP 21 states that all development will be expected to be of a high design quality. The policy goes on to state that it will need to integrate effectively with its surroundings, in terms of form and function together with reinforcing local distinctiveness.
- 5.64 A full explanation of the design principles of the proposed development, including its evolution, the Site constraints and opportunities is provided within the submitted Design and Access Statement. The creation of a high-quality sustainable development proposal contributes to the environmental role of sustainable

development set out within the Framework, protecting, and enhancing the natural and built environment and is a further significant benefit of the proposals.

5.65 In my view, the proposals represent sustainable development.

Planning Conditions and S106 Planning Obligation

5.66 Relevant Government advice is contained within the Framework and in Planning Practice Guidance.

5.67 The relevant tests (NPPF paragraph 57) for any planning obligation include that it must be:

- (i) necessary to make the proposed development acceptable in planning terms;
- (ii) directly related to the development; and
- (iii) fairly and reasonably related in scale and kind to the proposed development.

5.68 Paragraph 56 of the NPPF states that conditions should be kept to a minimum and only imposed where they are;

- i. necessary;
- ii. relevant to planning;
- iii. relevant to the development to be permitted;
- iv. enforceable;
- v. precise; and
- vi. reasonable in all other respects.

5.69 The need for a range of planning conditions is usual. They need to be imposed having regard to the tests in the NPPF as stated above. A list of conditions is being agreed with the Council and will ensure the principles for the sustainable and positive development of the site are carried through into the final delivered scheme.

5.70 A S106 planning obligation is also being prepared, subject to meeting the appropriate Statutory tests of necessity and reasonableness. A statement of compliance with statutory requirements and CIL is expected to be provided by the LPA and subject to that, the following matters are to be included in the Planning Obligation which will be provided to the Inspector:

- Affordable Housing (40%) provision on site
- Self Build (5%)
- Built/Formal Sports Provision
- Financial contribution towards education provision
- Financial contribution towards sustainable transport and highways improvements including footway improvements, Bus Services and Community Transport as well as a contribution to support a Local Traffic Regulation Order
- Financial contribution towards healthcare
- On Site Public Open Space arrangements

5.71 The development is also liable to the Council Community Infrastructure Levy. The Levy is charge at £40 per sq m and would be calculated at the Reserved Matters stage. 25% of the Levy goes to Parish Councils where they have a Neighbourhood Plan in place. Affordable housing and self build are exempt from CIL however the Levy could raise in the region of £290k depending on the final floorspace of the proposed dwellings.

6. CONCLUSIONS

- 6.1 This is a proposed development which should have been approved in line with the Officer recommendation to Planning Committee. My evidence sets out consideration of the relevant planning factors having regard to the Development Plan as the starting point and all other material planning considerations.
- 6.2 My evidence explains the weight to be given to Development Plan policy in the context of transitional arrangements and other policy set out in the NPPF.
- 6.3 It also explains the approach to decision taking as set out within paragraph 11 of the NPPF that is **“approving development proposals that accord with the Development Plan without delay; and where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless: the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole”**.
- 6.4 My evidence explains how the proposals represent sustainable development in line with the definition set out within the NPPF. I also explain how the proposals are brought forward fully in line with the provisions of the Development Plan. This noting that Policy SWDP 2 of the Plan defines Development Boundaries, and the appeal site falls outwith of the defined boundary and in the Countryside. However, where the Council cannot demonstrate the minimum required housing land supply, policy is out of date and the weight attributed to any conflict with it should be less. The Neighbourhood Plan suggests it would not resist proposals for additional housing where there is not a 5 year supply. Policy SWDP 1 states that where policy is out of date, the Council will grant planning permission unless any adverse impacts would significantly outweigh the benefits – this is the tilted planning balance and generally mirrors paragraph 11 of the Framework.
- 6.5 I explain that there are a considerable number of positive benefits of granting planning permission in this case particularly not least given the need for more housing and the shortfall in housing supply. There is considerable need for more affordable homes as well as a need for Self Build plots, a proportion of new dwellings within this scheme will be offered as such. These should be weighed very substantially in the planning balance.
- 6.6 In addition to the above there are substantial economic benefits which arise from the development, not least a significant gross development value, the creation of jobs and significant expenditure into the economy. Additional incidental benefits arise from the development too, and whilst more modestly weighted in the planning balance, they include the provision of new extensive areas of public open space and play spaces available to new and existing residents alike. The proposals will also provide for bio-diversity gains which given the timing of this application are not a statutory requirement at the level of gain proposed but are beneficial and may not otherwise arise without the development.

- 6.7 By contrast the adverse impacts are more limited and could not be described as outweighing the benefits, nevermind significantly or demonstrably so. There is some moderate harm by the inevitable loss of currently open countryside which is agricultural land (a proportion being BMV) and has some intrinsic character and beauty, but where the appellant's landscape evidence suggests the impacts are modest. Additionally, there is less than substantial harm to the setting of heritage assets, a matter to be given considerable importance and weight in the context of the statutory duty set out within the Planning (Listed Buildings and Conservation Areas) Act 1990, albeit assessed at the low end of the less than substantial scale and therefore of moderate weight. Highway impacts are not severe, the site is sustainably located and the development promotes sustainable means of travel. The proposals raise no other wider impacts in respect of other matters such as flood risk and drainage for example such that such matters do not materially weigh against the proposals in the planning balance, more a minor benefit of some de-culverting.
- 6.8 Whether a balance of the moderate heritage harm against the public benefits of the development, or also including other moderate landscape and loss of agricultural land harms against benefits, the balance falls in favour of the granting of planning permission.
- 6.9 With reference to a prepared S106 planning obligation, my evidence also explains how the development will make appropriate financial contributions in line with policy and in compliance with the Community Infrastructure Levy Regulations 2010, as well as providing for 40% of the proposed new homes to be much needed, affordable housing and 5% self build.
- 6.10 The proposals here accord with each of the social, environmental and economic aspects of sustainable development expressed in the Framework and can readily be seen as sustainable and the planning balance weighs in favour of granting planning permission. I would respectfully suggest in these circumstances that the appeal should therefore be allowed