
Appeal Decision

Inquiry opened on 12 May 2015

Site visit made on 15 May 2015

by Keith Manning BSc (Hons) BTP MRTPI

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

Decision date: 02 July 2015

Appeal Ref: APP/H1840/A/14/2224292

Land to the west of Leamington Road, Broadway, Worcestershire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by The Lindner Family and Spitfire Property Group against the decision of Wychavon District Council.
 - The application Ref W/13/00680/PN, dated 11 April 2013, was refused by notice dated 8 May 2014.
 - The development proposed is 75 open market dwellings and 50 affordable (housing with care) units (40 apartments and 10 bungalows), a community well-being building, new vehicular access, landscaping and public open space.
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Decision

1. The appeal is allowed and planning permission is granted for 75 open market dwellings and 50 affordable (housing with care) units (40 apartments and 10 bungalows), a community well-being building, new vehicular access, landscaping and public open space at land to the west of Leamington Road, Broadway, Worcestershire in accordance with the terms of the application, Ref W/13/00680/PN, dated 11 April 2013, subject to the conditions set out in the annex hereto.

Preliminary and Procedural Matters

2. The application submitted to the Council was refused for the five reasons set out on the decision notice. The Council declined to pursue its first reason for refusal in respect of the exclusive nature of the affordable housing with care proposed and I have no evidence to cause me to take a different stance on that matter. The fourth reason for refusal concerned the lack of a suitable planning obligation at the time but that has been overcome by the subsequent formulation of such an obligation and the Council no longer pursues that reason either.
3. Owing to unfortunate circumstances, the appellants were unable to execute the planning obligation by the close of the inquiry but were able to do so shortly thereafter, on 21 May 2015. The obligation, in the form of an agreement between the landowners, the Council and the County Council, provides for various financial contributions in respect of; provision for cycling; primary education; off-site built sports facilities at Evesham Sports Hub; off-site facilities associated with Broadway football Club and/or a new multi-use games

area (MUGA) or improved sport pitch provision in Broadway; recycling facilities; bus stop improvement and a contribution to the maintenance and/or improvement of the community building incorporating the community library within Broadway. The obligation also provides for the management and maintenance of the public open space proposed within the appeal site and for the provision of 40% affordable housing on the site. This is notable insofar as the affordable housing element would be wholly confined to the 50 housing with care units proposed, none of which would be open market housing.

4. The Council confirms that, at the time of the inquiry, the proposed planning obligation would comply with CIL Regulation 123¹. Nothing was anticipated to change that position within the likely timescale of deciding this appeal.
5. The parties agreed that it was unnecessary to call Mr Nigel Vening as a witness on highways and transportation matters and, having established that no third parties wished to question him, I concurred with that view, notwithstanding the subject matter of the fourth issue I have identified. The matter of connectivity to the village centre, it was agreed, could as effectively be dealt with by the scheme architect and/or the appellants' planning consultant.

Main Issues

6. Having heard and considered the evidence and submissions of the parties and visited the site and surrounding area, I consider the main issues to be as follows:-
 - Whether the proposed development represents 'major development' in Cotswolds Area of Outstanding Natural Beauty ('the AONB') for the purposes of the National Planning Policy Framework ('the Framework');
 - Whether there is a demonstrable need for the proposed housing, including the proposed affordable housing with care facility, in the locality;
 - The effect of the proposed development on the character and appearance of the area with particular reference to the local street scene and also the AONB;
 - Whether the proposed development offers an adequate choice of transport modes to future residents wishing to access the facilities of the village centre;
 - Whether certain financial contributions sought by the Council would be compliant with the Community Infrastructure Levy Regulations 2010 (as amended ('the CIL Regulations')); and
 - Whether, if the proposal does represent major development for Framework purposes, it would be demonstrably in the public interest and with exceptional circumstances to justify it and whether, all things considered, the proposed development represents sustainable development for the purposes of the Framework.

¹ ID12

Reasons

Background to appeal

7. The Statement of Common Ground (SoCG) dated 16 December 2014 describes in detail the circa 5.3 hectare site, its circumstances and the proposed development.
8. In brief, the proposed development is a fully worked up proposal for a comprehensive development of a housing with care facility complemented by a variety of open market houses on two fields on the northern edge of the settlement of Broadway, a popular tourist destination at the foot of the Cotswolds Escarpment. The site lies wholly within the designated AONB, as does much of the existing settlement. The western end of the site would be managed as public open space in the form of a community orchard, allowing for the marginal deflection of a public footpath (BY-521) which crosses the western field north to south, before continuing down the western margin of the 'Sands' housing estate to connect with Gordon Close and Walnut Close in the village centre.
9. Leamington Road forms the northern approach to the village from the A44 Broadway By-pass which continues south eastwards to ascend the Cotswold escarpment via Fish Hill. The vicinity of the appeal site may therefore be described as the northern 'gateway' to the village.
10. Following a number of recent appeal decisions, the appellants now accept that, for the time being at least, the Council currently has a five year supply of deliverable housing sites. It is notable, however, that the supply is in part dependent upon the capacity of the eastern field within the application site² which, although not yet formally confirmed as an allocation in the forthcoming replacement to the existing development plan, is the subject of a planning application by the appellants for some 58 units of general purpose housing.³ At the time of the inquiry the application had yet to be determined. Whether or not that particular application is approved, the Council confirmed, in response to my question, that the development of the site for housing was a 'working assumption' on its part. Indeed that must be the case if it relies upon the site as part of its five year supply, the merits and details of which are not, in the circumstances, a matter for me.

Relevant policy and legislation

11. Relevant policy is detailed in the SoCG but principally includes the Framework and the saved policies of the Wychavon District Local Plan 2006 ('the local plan'). Policies GD2 and SUR1 are specifically referred to in the reasons for refusal that the Council wished to pursue. GD2 concerns general criteria for development management and SUR1 specifically concerns built design.
12. Reference was also made by the parties to local plan policies GD1 and SR1. To my mind SR1 is only relevant to the extent that it underlines the fact that adopted policy specifically concerning the supply of housing land is out-of-date. It explicitly covers the period to 2011 and concerns specific allocations and a

² Site SWDP59/18 in *Wychavon Five Year Housing Land Supply Report*, July 2014

³ Ref W/14/02058/PN

windfall allowance to address the planned for needs to that date. As of now, pending adoption of a replacement plan, objectively assessed needs (OAN) are, by virtue of national policy embodied in the Framework, perforce the basis for determining the requisite land supply.

13. Policy GD1 is arguably more directly relevant in that it is concerned with the general location of new development, directing it primarily to the main built-up areas of Droitwich Spa, Evesham and Pershore and some of the villages, in all cases sequentially (brownfield first) to sites within defined development boundaries and/or on allocated sites and (in the case of Evesham only, if strategic needs so require) to sites adjacent to the development boundary. However, I do not consider this policy to be wholly up-to-date or consistent with the Framework because the strategy is out-of-date on its face (running only to 2011) and the strictly sequential approach is not entirely consistent with the Framework, notwithstanding that this encourages the use of previously developed land. Moreover, as the appellants point out, the Council's own calculation of a five year housing land supply relies on sites (including part of the appeal site) which are outside of defined development boundaries (in settlements other than Evesham). Therefore the existence of this deliverable five year supply of housing sites cannot, logically, make the policy fully up-to-date.
14. For these reasons, I accord very limited weight to policy SR1 and reduced weight to GD1. It seems to me that, insofar as SR1 concerns the supply of housing to 2011 specifically and to the extent that GD1 includes, amongst other things, elements of policy relevant to the supply of housing and, crucially, a five year deliverable supply of such may only be achieved by stepping outside the constraints of the latter policy in a location which includes part of the appeal site; neither may, for the purposes of this appeal, be considered up-to-date for the purposes of paragraph 49 of the Framework. That being so, then, all other things being equal, the presumption in favour of sustainable development set out in paragraph 14 of the Framework must, on the face of it, be engaged on the part of the site proposed to be allocated and counted into the supply, at least. Whether or not that presumption is then in effect disengaged by virtue of footnote 9 to the Framework is a matter to which I return in the context of the first main issue.
15. In concluding as I have on policy GD1, I am conscious that colleagues have concluded that GD1 could be considered consistent with the Framework and up-to-date in the presence of a five years housing land supply⁴. I have also considered the references in that material submitted by the Council to the Secretary of State's contrasting approach in the "Pulley Lane" decisions in Droitwich Spa⁵ and comments within my colleagues' decision letters that principles such as this are not necessarily more widely applicable and that the matter can only be concluded upon in the circumstances of individual appeals and the evidence and submissions pertaining thereto. While I have considered the reasoning of those of my colleagues who have taken a different view of GD1 carefully, it is not clear to what extent they were subject to submissions with the compelling logic displayed on this occasion by Counsel for the appellants in closing.⁶

⁴ CDs 7.22 – 7.24 as referred to in Council's closing submissions (ID23)

⁵ APP/H1840/A/13/2199085 & 2199426

⁶ ID24 paragraph 10

16. I do concur, however, with certain of my colleagues that the general thrust of GD1, to direct most development towards sustainable locations, remains consistent with that of the Framework. Equally, I am conscious that it is no part of the Council's case that the appeal site is inherently unsustainable in terms of its location. Indeed, it would be surprising if that were the case, as it is itself promoting substantial housing development on part of it. While I note that conflict with GD1 does not form any part of the Council's reasons for refusal, even though the officer's report notes that the proposal would be contrary to it by reason of being outside the adopted development boundary, I am also conscious, however, that, at the time of decision, the Council appeared to be in the process of working towards a five year supply of deliverable housing and on that basis would not be expected to place undue reliance on GD1. Be that as it may, it now does rely on it in the light of some of the more recent appeal decisions referred to.
17. Saved local plan policies GD3, SR5 and COM12 are relevant to the issue concerning financial contributions sought by the Council in the context of the submitted planning obligation. GD3 concerns the principle of seeking planning obligations in appropriate circumstances. SR5 is essentially concerned with minimising car dependency. COM12 concerns the provision of adequate public open space and its maintenance. The generality of these policies' intentions is not inconsistent with broadly equivalent policies within the Framework and they may be accorded weight as a consequence.
18. Policy ENV2 concerns development in the Cotswolds AONB and its relevance and applicability is a matter to which I return in the context of the first main issue.
19. By virtue of section 85(1) of the Countryside and Rights of Way Act 2000, I am obliged in any event to have regard to the purpose of conserving or enhancing the natural beauty of the AONB.
20. Certain supplementary planning documents adopted under the auspices of the local plan are relevant and these include *The Council's Developer's Contributions SPG*, its *Developer Contributions for Education Facilities SPG 2007*, its *Affordable Housing SPG*, its *Development Guide – Developer Contributions to Public Open Space* and its *Residential Design Guide SPD 2010*.
21. Emerging development plan policy is found in the submitted South Worcestershire Development Plan (SWDP) which is at a relatively advanced stage insofar as the examining inspector's interim conclusions have been published. It is notable that policy SWDP 2 of the emerging plan identifies Broadway, notwithstanding its location within the AONB, as a Category 1 village, the top of the rural settlement hierarchy for the purposes of assessing windfall development proposals, whilst SWDP 59 identifies the eastern part of the appeal site (Ref SWDP59/18) as an allocation for 59 dwellings.

Whether the site represents major development for the purposes of the Framework

22. The appellants present arguments in favour of the development on a contingency basis, in the event that it does it does represent 'major development', whilst maintaining that it does not. For my part, I have to decide one way or the other, at this juncture, as the outcome on this issue determines the proper approach to making the decision on this appeal. Amongst other things the appellants accept that, if the development is 'major'

then, by virtue of footnote 9 to the Framework, the presumption in favour of sustainable development cannot apply.⁷

23. The most appropriate starting point regarding the issue is the development plan and policy ENV2 of the local plan addresses specifically what it refers to for its purposes as 'major development', saying, amongst other things, that it will not be permitted within the AONB unless there is a demonstrably overriding national need in that location and explanatory paragraph 4.2.10 says that such development may include, for example, waste disposal facilities, mineral working, major road development or generally major development proposals that are more national than local.
24. The local plan policy is therefore clear in portraying what it means by major development. However, that relatively prescriptive approach does not accord with the approach subsequently deployed by the Framework, as recognised by the Council's planning officer in the committee report of 24 April 2014.⁸ Paragraph 115 of the Framework says that... "*Great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty*". Paragraph 116 makes it clear that, in these designated areas; planning permission should be refused for major developments except in... "*exceptional circumstances and where it can be demonstrated that they are in the public interest*".
25. 'Major development' is nowhere defined for this purpose in the Framework but the Planning Practice Guidance (PPG) is clear that... "*whether a proposed development in these designated areas should be treated as a major development, to which the policy in paragraph 116 of the Framework applies, will be a matter for the relevant decision taker, taking into account the proposal in question and the local context*".⁹
26. I am conscious that judicial opinion cited by the appellants¹⁰ rather leans towards the approach of local plan policy ENV2, but that was in the context of a legal determination not directly on the point, which was that the Inspector was entitled to conclude that a 150 home scheme in the setting of an AONB was not 'major' for the purposes of a local plan policy similar to ENV2. I am equally conscious that colleague inspectors have explicitly leaned towards the natural meaning of the word 'major'. The reasoning¹¹ of the Inspector who determined the recent appeal at Springfield Lane/Averill Close in Broadway is rendered particularly pertinent, if only by reason of proximity, to the site now at issue. In that decision the Inspector considered the Secretary of State's agreement with the Inspector's reasoning in an appeal at Handcross in West Sussex.¹² Given the circumstances of the present appeal, it would be wholly inconsistent if I were to strike out in a markedly different direction for the purposes of its determination without very compelling reasons to do so, notwithstanding the axiom that different appeals on different sites must be determined on their merits.

⁷ Appellants' closing submissions – ID24 paragraphs 12-14

⁸ ID11 'page 17' final paragraph

⁹ Ref ID 8-005-20140306

¹⁰ ID13 Stroud DC v SSCLG and Hinckley and Bosworth BC

¹¹ CD 7.22 paragraphs 38-42

¹² CD 7.3

27. Despite the appellants' arguments, I find no such compelling reasons. It is clear to me that 'major', for the purposes of the Framework, should not necessarily equate to something of national significance. It would be possible, for example, for a physically minor development such as a small defence installation, to be of national significance or importance. Equally, development on a substantial scale is not necessarily of national significance, even if in the public interest. Moreover, the reference to any national considerations against the first bullet point in 116 is inclusive rather than exclusive. To my mind, the meaning of 'major' for present purposes can only refer, in context, to the physical scale of development proposed. As my colleague in the Handcross case observed, the wording of paragraph 116 of the Framework refers to major developments rather than effects and, whilst the physical effects of the Springfield Lane/Averill Close proposal, including within distant views of the site in the context of the settlement, would undoubtedly have been different, it would have involved the construction of 70 dwellings on a site less than half the size of the present proposal.
28. By most standards, taking the natural meaning of the expression, 125 dwellings on a 5.3 hectare site is a major development. In the context of a large urban area its significance might be materially reduced but in the context of a village such as Broadway it must, in my view, be classified as major in the absence of any specified criteria by which to conclude otherwise. The fact that developments on a comparable scale have taken place in the village since the AONB was designated to include most of it does not help the appellants' arguments in this respect; because those developments, like the local plan policy ENV2, pre-date the Framework and the associated PPG.
29. All in all, I have no hesitation in concluding that, for the purposes of the Framework, the proposed development should be classified as 'major', thereby bringing into play, amongst other things, the considerations specified in paragraph 116 in the assessment of whether exceptional circumstances exist and whether the development would be demonstrably in the public interest. This is a matter to which I return in the context of the final issue.

Need for the proposed development

30. The question of need for the open market housing element may be taken as given in the context of the Framework's aim to significantly boost the supply of housing, the OAN for Wychavon and the fact that part of the site is allocated in the emerging SWDP for 59 units of general purpose housing. Although this is less than the 75 market dwellings proposed and a significant proportion of new general purpose housing would need to be affordable, I am conscious that other sites are being brought forward by the Council in Broadway through the SWDP, notably but not exclusively at Station Road.¹³ Broadway is a Category 1 village and in principle is to accommodate new housing. Within the general order of magnitude of expansion envisaged, it would be unrealistic to ascribe undue significance to precise numbers as the market is constrained to deliver according to its own exigencies as well as legitimate planning considerations. In any event, needs will continue beyond the 15 years remaining in the SWDP time horizon. Development of the 75 market houses might result in more houses being built in Broadway than currently planned for over that period but

¹³ Ref SWDP59/19

the effect on the overall magnitude of expansion envisaged would not in my view be harmfully significant.

31. The feature that differentiates the proposed development from most schemes of development is the intention to provide 50 units of affordable housing with care and it is notable in this context that the Council does not now wish to pursue its first reason for refusal.
32. The specialist evidence of significant need in and around Broadway adduced by the appellants was to some extent questioned by the Council but no specific evidence was put forward in rebuttal. On consideration it seems to me that whilst there is demonstrable need within Broadway and nearby villages, the nominated provider, which already operates a significantly larger facility in Evesham¹⁴, would likely have to promote the proposed facility to qualifying Broadway residents and others in order to fill and operate the facility successfully and economically. That is not the same thing at all as concluding that it would not be needed.
33. The demographic context of an ageing population and improved longevity is important and for a facility of this nature it must be the case that qualifying residents respond to opportunities, desirable in principle, which would not be available if such specialist housing were not to be constructed broadly within their area of residence. In doing so, they would inevitably free up accommodation for younger people and thereby improve local choice and opportunity within the housing market. Moreover, people's housing needs do not recognise administrative boundaries and, whilst ageing residents from, for example, Wickhamford, might conceivably be better served by a move to housing with care in Evesham, it is reasonable to conclude that their equivalents in Willersey are much more likely to look to Broadway if they wish to retain local family and other connections. Whether or not he would himself qualify for the affordable accommodation proposed in this instance, now or in the future, the former resident who spoke at the inquiry in support of the development concept bore eloquent testimony to the latter principle.
34. By its very nature and purpose, housing with care, which is ultimately a lifestyle choice for individuals and any family they may have, does not readily lend itself to locally and geographically predictive modelling of needs with scientific exactitude and, bearing in mind the generality of demographic and life expectancy factors, is likely to increase into the foreseeable future in any event. To my mind, what is important is to enable opportunity for its provision to be realised in appropriately sustainable locations as part of the achievement of balanced communities. Moreover, affordable rent and shared ownership options, as proposed here, are an important element of such choice, not least in locations such as Broadway where the strength of the private housing market can as often as not militate against the possibility of affordable choices beyond general purpose affordable housing required in the normal run of housing development.
35. Support for the general proposition and recognition of the practicalities is found in the recent amendment to PPG concerning housing for older people to which my attention was drawn.¹⁵ This does advocate predictive assessment in plan-making but also emphasises the importance of choice. Clearly, without

¹⁴ To which I made an accompanied visit on the evening of the first day of the inquiry

¹⁵ ID1

opportunity there is no such choice. I also have in mind the principles set out in *Laying the Foundations: A Housing Strategy for England*¹⁶, paragraphs 25 – 27 being especially relevant to this case.

36. In this instance the background predictive assessment advocated by the PPG is found in the *Worcestershire County Council Extra Care Strategy 2011-2016* and support for the principle of housing with care is generally embodied in *Wychavon's Community Strategy 2007-2010* local plan policy COM4 (albeit this aims to restrict such development to defined development boundaries) and policy SWDP20 of the emerging SWDP, as the appellants' specialist evidence notes. I am also conscious that Worcestershire County Council's Adult Services and Health Directorate specifically supports the housing with care element proposed, as does the Council's Housing Development Officer.
37. All things considered I am satisfied that, in principle, there is evidence of a significant demonstrable need for housing with care in Broadway and its sphere of influence and that affordable rented and shared ownership accommodation of that type comprises a significant element of the overall need. This begs the question of how it is to be provided for given that many housing with care schemes are essentially owner-occupied. The Worcestershire Extra Care Strategy recognises that the need for staffing, shared facilities and so forth gives rise generally to considerations of critical mass and that the minimum practicable size is in the region of 50 units of accommodation, conflicting somewhat with intentions regarding previously developed sites for preference and the desire to retain a domestic rather than institutional atmosphere. Moreover, in this case, the clear and largely unchallenged position of the appellants¹⁷ is that, without cross-subsidy from the market housing proposed, affordable housing with care would not be a realistic proposition given, amongst other factors, capped rents and limitations on public subsidy. Not only must the construction cost be effectively subsidised by the developer but a free serviced site for its chosen partner (a matter evidently embodied in a conditional contract between the relevant parties) is a necessary factor in the equation. I have no compelling evidence to the contrary, or any other reason to doubt that is the case.
38. Overall, I am persuaded that there is a demonstrable need for the proposed housing, including the proposed affordable housing with care facility, in the locality.

Character and appearance of area

39. Broadway is notable for its historic centre of distinctive local character, much of which is a conservation area. It has expanded over time with much twentieth century suburban housing having been developed to the north on either side of Leamington Road. This forms a distinct area separated from the western part of the village, including the award winning re-development of the Gordon Russell Furniture Factory adjacent to meadowland between Averill Close and Springfield Lane, part of which, to the west of BY-521, was subject to the unsuccessful appeal previously mentioned.
40. Although similarly placed as undeveloped land at the settlement edge, the appeal site in this instance has a different relationship to the settlement as a

¹⁶ Extract at Appendix K to evidence of Mr Foreman

¹⁷ As set out in Section 9 of the evidence of Mr Foreman

whole, being effectively a component part of what would remain a relatively compact block of suburban development reasonably characterised as a nucleated settlement pattern in evidence presented by the appellants.¹⁸ Although criticised by some participants, I do not consider this analysis of settlement morphology, differentiating between 'linear' and 'nucleated' to be unduly contrived.

41. Moreover, its relevance is readily appreciated in views across the settlement from points on the Cotswolds escarpment including the top of the Broadway Tower and parts of the Cotswolds Way. From such elevated positions the appeal site appears as a narrow band along the north west margin of the major nucleated part of the settlement and, given the essential flatness of the site, the relatively low density of the proposed development and its consequent ability to accommodate generous landscaping, its visibility when completed would only marginally extend the apparent limit of the settlement within the broad and dramatic prospect to the north and west of the lowland landscape in the near and middle distance and various distant ranges of hills towards the horizon beyond. The device of maintaining the westernmost part of the site as a large open space to be used as a community orchard would prevent any appearance of the development spilling out into the countryside west of the developed nucleus.
42. From most of the flat countryside to the west and north of the village (also in the AONB as far west and north as Springfield Lane and the dismantled railway) the proposed development would be effectively hidden by the multiple hedgerows defining the field pattern and would be filtered in close view, if not always completely screened, by the landscape scheme proposed, including the community orchard and its outer boundary. I do not agree with the appellants' architectural witness that screening the northern margin of the Sands estate on approach from the north down Leamington road would be a significant benefit of the proposed scheme, as the nature of the vegetation defining boundaries at this locality is such that this does not affront the passer-by in any event. However, the more attractive prospect that the northern margin of the proposed development would present would be similarly inconspicuous from most views on the approach to the village from the north, albeit it would be seen at close quarters by users of the formalised track proposed inside the northern boundary of the development.
43. Although this is not a view shared by a number of third party objectors, I can well appreciate why the Council does not maintain that there would be a significant and harmful effect on the scenic beauty of the AONB at the broad scale I have discussed. The proposed development would appear as a marginal expansion of a significant area of housing already in the scene, much of which has been developed since the AONB was originally designated.¹⁹
44. Leaving aside the matter of the frontage to Leamington Road, the localised visual impact of the proposed development beyond the site itself would not be significant. There was some discussion of the impact on views to the Cotswolds escarpment from the footpath currently traversing the western part of the appeal site, the line of which is proposed to be deflected in due course through the community orchard. These would be lost to some degree by the intervention of the houses proposed on plots 120-125, the means of enclosure

¹⁸ Plan EDP2 – evidence of Ms McKenzie

¹⁹ Appendix 4 to evidence of Mr Lewis

of their rear gardens and the landscaping associated with the boundary between the community orchard and these proposed new houses. However, the escarpment is a major physical feature dominating the village, which can be seen from many parts of it unimpeded, partially obscured or glimpsed beyond buildings and trees. The deflected footpath would be no different in that respect and any loss of existing view would be more than compensated by the prospect obtainable from the western parts of the proposed community orchard, which would occupy open land over which there is currently no public access as of right. The open area proposed would provide a welcome contrast to the more enclosed nature of the footpath alongside the Sands estate.

45. Given the partially rural nature of the footpath BY-521 and the intended nature, function and context of the community orchard, I find little merit in the Council's complaint that the layout of the plots 120-125 would allow insufficient surveillance of the public open space. It is notable in the particular local context that the responsible Crime Prevention Officer has no objections. I do not consider that part of the Council's second reason for refusal which relates to the relationship of the houses to the proposed open space to be of sufficient substance to demonstrate harmful conflict with development plan or other relevant policy objectives in that respect. It follows that I do not consider it would be necessary to impose a condition requiring that this part of the scheme layout be revised, as mooted by the appellants and endorsed by the Council in the sense that it did not seek to resist such an approach.
46. The principal remaining interface with the public domain of the AONB to be considered is the frontage of the appeal site to Leamington Road, which is effectively part of the street scene of the village just beyond its effective 'gateway' from the north. This would be dominated by the elongated and continuous frontage of the housing with care development proposed.
47. It is notable that during the course of the iterative design process the appellants were encouraged, with good reason, to move the proposed housing with care development to this frontage rather than adhere to the original concept²⁰ of locating it on the land which is now proposed to be utilised as the community orchard. The architectural maxim "form follows function" became something of a mantra in the appellants' submissions, but it is nevertheless inescapable that a housing with care facility of the requisite minimum size must have continuous internal access to the living units and some form of central hub of facilities. It therefore seems to me almost inevitable that a large single building, if it were not to be relatively inaccessibly located amidst general purpose housing in the centre of the site, should be proposed on Leamington Road.
48. It also seems to me that two principal approaches to this are possible. Either a clear contrast, possibly stark, with the generally domestic appearance and scale of the development on Leamington Road and Broadway more generally could be contemplated, or some form of pastiche which seeks to emulate the established traditional street scene and, by doing so, reduce the impact of the inevitable mass of the required building. The appellants have opted for the latter approach in this instance and, in my view, with an unusual and creditable degree of artfulness in architectural terms. The building proposed would have the appearance of a continuous range of traditional dwellings along the

²⁰ Design Concept Plan – evidence of Mr Lapworth page 07

Leamington Road frontage and the estate access road, albeit of varied design and appearance within the theme of the local vernacular.

49. I accept that the 'terraces' thus created would be longer than many in the town and that the character and appearance of the development fronting it would be more reminiscent of the village centre than the suburban housing that tends to characterise this part of Leamington Road. However, I am conscious that Natural England, a body with statutory responsibilities which include advising on developments in AONBs, is recorded as keen to encourage building of the former type on this important approach to the village. Perhaps more pertinently in respect of the Council's particular concerns about the massing of the building that would be experienced along the Leamington Road frontage and on the return frontage to the access road, it is important to appreciate that the built environment is experienced in three dimensions and generally from street level rather than in plan form. With this point in mind I have considered carefully the design proposed, its positioning, its configuration, the spaces in which it would be set and the landscape setting proposed.
50. Far from appearing as a contrasting monolithic single structure, the clever articulation and architectural detailing, including, it must be recognised, some blatant tricks (an approach, I note, that the award winning and acclaimed Russells development does not entirely eschew) combined with the use of appropriate materials would, in my estimation, result in a development which gives the appearance of organic growth and accretion over time in the local vernacular style. There is no getting away from the reality of a large building form, but in terms of disguising and mitigating that fact in a pleasing fashion which does not compromise function, what is proposed is in my consideration a high quality solution which would alter but not unduly harm the street scene and would be worthy of the high quality AONB environment in which it would be set.
51. The remainder of the development would comprise a range of individually designed houses set in a landscape setting sufficiently generous to create a pleasing overall appearance on a flat site such as this. It is clear that a great deal of thought has been put into the proposed development with respect to local distinctiveness and the achievement of quality in the built environment, the sort of design excellence positively encouraged by the Framework. Accordingly, I find no harmful conflict with the design objects of development plan policy including those of local plan policies GD2 and SUR1 or national policy in that respect.
52. For the above reasons I consider the effect of the proposed development on the character and appearance of the area with particular reference to the local street scene and also the AONB would be neutral or positive rather than harmfully negative in any decisively significant way. In drawing that conclusion I have kept in mind the statutory duty imposed on me by the relevant provision of the Countryside and Rights of Way Act 2000 previously referred to and the great weight that should be given to conserving its landscape and scenic beauty as emphasised in paragraph 115 of the Framework.

Access to village centre

53. The Council and others, notably the Ramblers' Association, oppose the development on the grounds that pedestrian circulation and routes to the village centre are misconceived and, in the Council's case, there is particular

objection to the lack of pedestrian connection to Phillip's Road, a prospect that would, I was told, have met with opposition from not only local residents but, perhaps somewhat surprisingly, also relevant officials of the highway authority. It is not necessary for me to take a view on the reasonableness or otherwise of that prospective opposition as I must take the scheme as I find it.

54. Plainly, a pedestrian connection, at least, would be a desirable and logical deployment of the public street system that already exists to help integrate new development into the fabric of the village. However, delivery of development projects is plainly the art of the possible and, in this case, it is evident that a 'ransom strip' has been retained at the open end of Phillips Road where it would lead onto the appeal site, a not uncommon arrangement in my experience. Private developers do not generally benefit from an ability to compel recalcitrant landowners to co-operate. Therefore they must trim their ambitions accordingly.
55. The layout of the scheme as proposed would not physically preclude pedestrian access to Phillips Road in the future (subject to acquisition of the right to do so) and I could well understand if it were to be a desire line for residents of houses in the south central part of the proposed development. However, I have walked the principal alternative route to Back Lane in the village centre (i.e. via Leamington Road, Bloxham Road and Morris Road, picking up the pedestrian only route off Meadow Orchard) and found this to be perfectly acceptable by comparison as a wet weather or night-time route.
56. Footpath BY-521, leading out of the proposed development via the community orchard and then down the western margin of the Sands estate before passing through the meadows north of Gordon Close would, self-evidently, be less attractive at such times. Equally, because of its relationship to open land to the west of a rural character, it would be a notably pleasant walk in fair weather, as I experienced it on my visits.
57. The other principal route to the village centre would be simply via Leamington Road (also a bus route). Owing to the morphology of the built up area into which the proposed development would fit (i.e. the nucleated block of development previously referred to) all these routes are a broadly comparable effort in terms of time and distance for those who are inclined to walk to the village centre. Similar comments apply to use of the routes by cyclists although the western route via BY-521 would require upgrading for that purpose.
58. Regarding the connectivity of the residential area proposed to the open space, via the western part of the track to be formalised within the northern boundary of the appeal site, I have no significant concerns. I am confident that the community orchard would be sufficiently pleasant and attractive to residents of the proposed housing to make the small diversion (along its rural margin) from a straight line approach to it well worth the minimal extra effort.
59. All in all, while a Phillips Road pedestrian connection might appear as a logical connection and would in reality be a desirable further option, it is by no means essential to creating the necessary connectivity to the village centre; and the connectivity within the proposed development itself, including to the community orchard is entirely within the bounds of normal expectations of attractiveness and legibility. Therefore I find no conflict with the intentions of development plan policy, including those of local plan policies GD2 and SUR1,

or national policy in respect of this issue. Not only would the proposed development work satisfactorily in terms of internal circulation, it would also offer an adequate choice of transport modes to future residents wishing to access the facilities of the village centre.

Financial contributions

60. The executed planning obligation provides that provisions which I find to be non-compliant with the CIL Regulations shall have no effect. The parties' positions in respect of the planning obligation financial provisions are summarised in submitted inquiry documents²¹ and are referred to in evidence. I have no reason to take a different view on those on which there is agreement. Taking account of the Framework, PPG, local plan policies GD3, SR5 and COM12 and the supplementary planning documents previously referred to, I am satisfied that the financial contributions in those cases are necessary, directly related to the development and proportionate. The issue therefore concerns those aspects of the obligation about which there is disagreement.
61. These are The Community Buildings Contribution (Schedule 9), the Off Site Built Sport Facilities Contribution (Schedule 4) and the Off Site Formal Sport Contribution (Schedule 5). I note that obligations entered into in respect of other permissions (albeit insufficient in number to cross the CIL Regulation 123 threshold) already contribute towards the expansion of facilities at Evesham Sports Hub, which serves, amongst others, the Broadway area, and that at least one such contribution is to be made to the enhancement and improvement of Broadway Football Club and/or in respect of a new multi-use games area (MUGA) or improved sports provision in Broadway. I was told that the Broadway Football Club and its facilities are open to all in the manner of a Council leisure centre and the impression of contribution towards private club facilities is therefore erroneous.
62. On that basis, and in view of the policy requirements for development (in this case the 75 open market dwellings only and not the housing with care element) to mitigate its impact, I can see that extra pressure on sports facilities in Broadway and more centrally in Evesham would justifiably require, in principle, financial provision to help facilitate the necessary improvements in capacity. Moreover there are specific projects in mind that are sufficiently local to be of relevance to prospective residents and there is evidence of need for a range of facilities in the form of the 2010 study²² jointly commissioned by the three South Worcestershire councils. I am also conscious that the Council applies standard published formulae and Sport England's Facilities Calculator and that colleagues have found contributions similarly calculated in the Council's area to be CIL compliant. With these factors in mind I have no reason to take a different view in respect of the Off Site Built Sport Facilities Contribution and the Off Site Formal Sport Contribution. It seems to me that the contributions would be necessary and would be proportionate and sufficiently well related to what is proposed to satisfy the relevant tests. I therefore accord them weight in my decision.
63. I am less satisfied in principle and in practice with the Community Buildings Contribution, in this context, because it seems to me that there is little in the

²¹ ID3 and ID12

²² CD 2.30

way of convincing evidence that existing buildings would necessarily be put under significant strain that would not otherwise be addressed. It seems that the Council, no doubt for its own good reasons, intends to transfer the present library in Broadway into community ownership and that the Community Buildings Contribution would be used to facilitate that process, in part through a reconfiguration internally to provide for wider community use. That transfer and change of approach to the use of the library building is plainly something that the Council wishes to put into effect irrespective of whether this development proceeds and the contribution sought seems to me to be more opportunistic than demonstrably necessary, albeit contributions to library facilities per se are not in principle outside the legitimate scope of planning obligations. On balance, however, I am not persuaded in the circumstances that the Community Buildings Contribution in this instance satisfies all the relevant tests to ensure compliance with the CIL Regulations. I therefore accord it no weight in my decision.

Exceptional circumstances and sustainability

64. The Framework is clear that major development, such as I consider this to be, should only be allowed in an AONB in exceptional circumstances. The designation carries the highest status of protection in relation to landscape and scenic beauty and paragraph 116 requires that consideration of applications for major development should include an assessment of three specified factors, in the terms in which they are set out therein.
65. I am in no doubt that the development is needed, not only because housing of the order of magnitude proposed is necessary to ensure a robust five year supply (including on a significant portion of the site in any event) in the context of OAN, but also in view of specific local demographic factors relevant to housing with care and the national concern in any event that provision for the elderly within the housing stock should be given special attention. The relevant PPG guidance I have previously referred to states amongst other things that the need to provide housing for older people is "critical" given the projected increase in the number of households aged 65 and over accounts for half of the new households in the DCLG Household Projections of 2013. Plainly, this principle cannot apply solely to open market housing and, in an area such as that which this proposal is situated in, affordability is a key concern. The inherent affordability of the housing with care element proposed is therefore a factor which weighs heavily in favour of the proposal as a whole, bearing in mind the need for this to be of sufficient critical mass to support that element and the minimum size which the latter must achieve for effective operation.
66. I do not consider the impact of refusing the development would be seriously damaging to the local economy, there is no clear evidence to that effect, but in addition to the benefits of the New Homes Bonus and any temporary local boost during the construction phase, the ongoing need for staff to run the housing with care element would in all probability be most beneficial in the local community.
67. Housing with care is an emerging concept and practice, in response to significantly improved longevity; and has clear benefits by comparison with a perhaps more institutional approach in its absence. I have no evidence to suggest that the need for the development could be met in some other way

- within the AONB or that there is economically viable scope for carrying out the development as conceived outside the AONB.
68. The third and final prescribed factor concerns any detrimental effect on the environment, the landscape and recreational opportunities and the extent to which that could be moderated: For reasons previously detailed, I do not consider the impact on the broader landscape of the AONB would be significantly detrimental and the excellence of the design would render the visual impact of the development acceptable even within the attractive area on the edge of the village in which the appeal site is situated. The attractions of this area can be experienced at close quarters from the public footpath, now, but the sensitive approach to deflecting it through a community orchard and facilitating pedestrian access along the northern margin of the appeal site would not only help to moderate environmental impact but would positively improve recreational opportunities within this part of Broadway, which is a settlement integral to the AONB itself.
69. Bearing in mind all of the above, I am in no doubt that this needed and in many respects innovative development would be, demonstrably, in the public interest, both in terms of boosting the supply of housing generally and meeting OAN locally in short order, and in terms of providing specialist affordable housing for the elderly on a significant scale.
70. Many of these factors, including design excellence and lack of substantial visual harm, are capable of contributing to exceptional circumstances. Major development should not normally take place in an AONB, where the presumption in favour of sustainable development does not apply, but the relevant factors are integral to the planning balance in any event.
71. Clearly, to be allowed, the development must be on the positive side of the balance in terms of sustainability. The Framework as a whole is the key to determining whether that is the case and this includes the concept of the planned system, albeit conflict with the development plan does not of itself render a development proposal unsustainable.
72. In this case, there is a conflict with the broad intentions of policy GD1 to concentrate development within identified development boundaries but, as the location of the site is inherently sustainable and the Council in any event relies on the eastern part of the appeal site, outside the currently defined development boundary, to deliver a five year supply of housing to meet OAN (and thereby maintain the currency of GD1) and proposes to allocate it for 59 dwellings, I place substantially less weight on the conflict with GD1 intentions in this location than would otherwise be the case. Moreover, as a result of excellent design in context and the accessibility of the site to the village centre I find no conflict with the intentions of local plan policies GD2 and SUR1, or equivalent intentions of the Framework. The approach to major development in policy ENV2 of the local plan is not reflective of the equivalent intention in the Framework, which approaches the concept somewhat differently, and I therefore place limited weight on that policy which the Council does not in any event cite as a compromised policy of its development plan.
73. The fact that the western part of the site is (Grade 2) best and most versatile agricultural²³ land outside the limit of what the Council accepts and proposes as

²³ ID17

a site to be developed in order to satisfy needs for general purpose housing weighs against the sustainability credentials of the development; albeit the loss of the community orchard proposed on part of this to effective agricultural use would not be irreversible in soil resource terms, even though it is unlikely to revert to such use. However, the loss must be placed in the overall balance in terms of the economic, social and environmental dimensions of sustainable development and, given the powerful justification for the scheme, I do not accord it decisive weight.

74. For the reasons I have given, the implications of the proposed development in terms of each of these dimensions are positive in the main, albeit the loss of two fields from the immediate rural landscape of the AONB, taken in isolation, must also be a negative in the planning balance. However, I do not consider that to be of undue significance bearing in mind the lack of harmful visual impact in the context of the broader landscape of the AONB, the excellence of design, the need for the development and the rarity of opportunity to viably provide housing with care that is affordable, I consider the requirements of paragraph 116 of the Framework are met insofar as the circumstances justify an exception to the restriction on major development that would otherwise apply. This in itself, self-evidently, is an important requirement if the development is to be considered sustainable in terms of the Framework taken as a whole.

Other matters

75. Third party objectors raise a number of concerns broadly reflecting those identified by the Council. These include aspects of the statement on behalf of Broadway Parish Council, Broadway Trust, Save Broadway Campaign and the Springfield Lane association as well as the correspondence from The Cotswolds Conservation Board, which has a statutory remit concerning the conservation and enhancement of the natural beauty of the AONB and the understanding and enjoyment of its special qualities. Numerous local residents have also objected for similar reasons and these are addressed in practice through my consideration of the main issues I have identified.
76. Beyond those issues, objections centre on a range of matters including impact on social infrastructure and facilities, drainage and flooding, ecology, highway safety, traffic and residential amenity but I have no cogent evidence that the material concerns cannot be met by the imposition of appropriate planning conditions or through the provisions of the planning obligation as the case may be; and there are no objections in principle from statutory consultees with specific responsibility for the more technical aspects of the proposed development, including highway safety and flood risk.

Planning Obligation and Conditions

77. The planning obligation would be necessary to mitigate impacts and to secure the housing with care as the affordable component of the scheme. I have already considered which elements can be accorded weight in my decision and it is not therefore necessary for me to comment further.
78. There is a large measure of agreement between the parties as to the conditions that should be imposed in the event of the appeal being successful and I have considered the Council's suggestions and the few disputed points in the light of the PPG. For the most part the suggested conditions would be necessary and

are appropriately worded subject to minor amendment to better reflect the intentions of the relevant guidance and in the interests of good practice. I consider the suggested conditions (SC) in more detail below.

79. SC1 would require a commencement within two years and I was told that this was something which the appellants were happy to go along with and was suggested because it was, apparently, standard practice on the part of the Council. That may be so, but I see no particular necessity in this case to depart from the standard period legislated for. SC20 requires accordance with a comprehensive list of specified plans to define the permission in the interests of good planning and would be more appropriately placed immediately following the time limit.
80. SC2 provides for further details of landscaping, its establishment and initial maintenance and the replacement of any failed planting. The quality of the landscaping associated with the scheme is important and the condition would therefore be necessary. SC3 aims to protect existing trees and hedgerows that will be complementary to those newly planted in the maintenance and achievement of environmental quality and would be both necessary and appropriate. SC4 would likewise be necessary to secure environmental quality through landscape in the long term.
81. SC5 and SC19 would be necessary, respectively, to secure proper foul and surface water drainage so as minimise risks of pollution and flooding.
82. SC6 would provide the Council with detailed control over the use of external materials and would be a necessary safeguard in respect of the appearance of the development, whilst SC7, controlling the hours of construction (agreed by the appellants to be reasonable), would be a necessary safeguard of the amenities of nearby residents.
83. Given the general flatness of the site, SC8 would be unduly onerous if applied comprehensively, whereas the appellants agreed that a more discriminating condition directed at slab levels of new dwellings adjacent to existing development along certain boundaries of the site would be reasonable. SC9 seeks to secure sustainable practices in the construction and running of the proposed buildings but is based only on emerging rather than adopted development plan provisions. That being so and in the light of the Deregulation Act 2015, the Ministerial Written Statement of 25 March 2015 and the move towards national standards, I am not persuaded that SC9 would be necessary or appropriate.
84. SC10 is proposed to control the boundary treatments within the site and would be necessary and appropriate in view of their potential impact on the quality and appearance of the development. SC11, requiring a limited number of windows on specified plots to be obscure glazed, and non-opening below 1.8 metres, would be necessary to protect the privacy of nearby existing residents.
85. SC12, SC14, SC15 and SC17 are directed to highway safety and standards of road construction and finish and would be necessary and appropriate. SC13 would similarly be justified to ensure highway safety during the construction period. SC16 would necessarily provide for cycle storage as needed in compliance with the Council's standards, so as to encourage and facilitate sustainable travel options, an object which would necessarily be encouraged through the sustainable travel packs required by SC18.

Conclusion

86. For the reasons I have given I consider the conflict with the development plan to be limited to the departure from the intentions of local plan policy GD1 to contain development within prescribed limits whilst limiting the use of greenfield land but the weight of material considerations in favour of the development is sufficient for this not to be decisive against the proposal in specific local circumstances where the weight to be accorded to the policy is logically reduced in any event. In particular, I consider the proposed development to be sustainable development for the purposes of the Framework including, most importantly, satisfaction of the requirement of paragraph 116 that major development may only be permitted in an AONB in exceptional circumstances. Therefore the fact that the presumption in favour of sustainable development set out in paragraph 14 of the Framework does not apply in this case has no direct bearing on the outcome of the appeal. Subject to the provisions of the planning obligation, all bar one I accord weight to, and the conditions I intend to impose, I consider the proposed development to be acceptable.
87. In reaching this conclusion I have considered all other matters raised, including relevant case law and other appeal decisions, but none are sufficient to alter the overall balance of my conclusion that, in this instance, because the major development proposed in the AONB is sustainable development justified by exceptional circumstances and that the material considerations leading to this conclusion outweigh the conflict with the development plan I have identified, the appeal should be allowed.

Keith Manning

Inspector

Annex: Schedule of Conditions

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:-

CAD site plan as proposed with ROW	1212/01 REV L
Plots 1 – 3 Plans and Elevations	1212/02
Plots 4 – 5 Plans and Elevations	1212/03
Plots 6 – 7 Plans and Elevations	1212/04 REV A
Plots 51 – 56 Plans and Elevations	1212/13 REV A
Plots 57 – 60 Plans and Elevations	1212/14 REV A
Plots 61 – 65 Plans and Elevations	1212/15 REV B
Plot 66 Plans and Elevations	1212/16

Plot 67 Plans and Elevations	1212/17 REV A
Plot 68 Plans and Elevations	1212/18 REV A
Plot 69 Plans and Elevations	1212/19 REV A
Plot 70 Plans and Elevations	1212/20 REV A
Plot 71 Plans and Elevations	1212/21 REV A
Plot 72 Plans and Elevations	1212/22 REV C
Plot 73 Plans and Elevations	1212/23
Plots 74 – 76 Plans and Elevations	1212/24
Plots 77 – 80 Plans and Elevations	1212/25 REV A
Plots 81 – 82 Plans and Elevations	1212/26 REV A
Plots 83 Plans and Elevations	1212/27
Plots 84 – 85 Plans and Elevations	1212/28
Plots 86 – 89 Plans and Elevations	1212/29
Plots 90 Plans and Elevations	1212/30 REV A
Plots 91 – 93 Plans and Elevations	1212/31
Plots 94 Plans and Elevations	1212/32
Plots 95 – 97 Plans	1212/33 REV A
Plots 95 – 97 Elevations	1212/34
Plots 98 Plans and Elevations	1212/35
Plots 99 Plans and Elevations	1212/36
Plots 100 - 102 Plans and Elevations	1212/37 REV B
Plot 103 Plans and Elevations	1212/38
Plot 104 Plans and Elevations	1212/39 REV A
Plot 105 Plans and Elevations	1212/40
Plots 106 - 107 Plans and Elevations	1212/41
Plots 108 - 109 Plans and Elevations	1212/42
Plot 110 Plans and Elevations	1212/43 REV A
Plot 111 Plans and Elevations	1212/44
Plot 112 Plans and Elevations	1212/45 REV A
Plot 113 Plans and Elevations	1212/46 REV A
Plot 114 Plans and Elevations	1212/47
Plot 115 Plans and Elevations	1212/48 REV A
Plot 116 - 119 Plans and Elevations	1212/49
Plot 120 Plans and Elevations	1212/50 REV A
Plot 121 Plans and Elevations	1212/51 REV A
Plot 122 Plans and Elevations	1212/52 REV A
Plot 123 Plans and Elevations	1212/53
Plot 124 Plans and Elevations	1212/54
Plot 125 Plans and Elevations	1212/55 REV A
Site location plan	1212/56
Street furniture	1212/57
Site plan colour	1212/100 REV A
Plots 8-50 Ground floor plan	1212/132

Plots 8-50 First floor plan	1212/133
Plots 8-50 Roof plan	1212/134
Plots 8-50 Elevations	1212/135
Plots 8-50 Elevations	1212/136
Leamington Rd Street Elevation	1212/140

3) Notwithstanding the submitted Landscape Strategy Drawing 12.122.101 rev F and prior to the commencement of the construction of any of the dwellinghouses hereby approved full details of soft landscaping works shall be submitted to and approved in writing by the Local Planning Authority.

The details submitted must include:

- i) a plan(s) showing details of all existing trees and hedges on the application site. The plan should include, for each tree/hedge, the accurate position, canopy spread and species, together with an indication of any proposals for felling/pruning and any proposed changes in ground level, or other works to be carried out, within the canopy spread.
- ii) a plan(s) showing the layout of proposed tree, hedge and shrub planting and grass areas.
- iii) a schedule of proposed planting - indicating species, sizes at time of planting and numbers/densities of plants.
- iv) a written specification outlining cultivation and other operations associated with plant and grass establishment.
- v) a schedule of maintenance, including watering and the control of competitive weed growth, for a minimum period of five years from first planting.

Planting and seeding/turfing shall be carried out fully in accordance with the approved details in the first planting and seeding/turfing seasons following the completion or first occupation/use of the development, whichever is the sooner.

Any trees or plants which, within a period of five years from the completion of the planting, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless otherwise agreed in writing by the Local Planning Authority.

4) All existing trees and hedges on site, or branches from trees on adjacent land that overhang the site, unless indicated on the approved plan(s) to be removed, shall be retained and shall not be felled or pruned or otherwise removed within a period of five years from the completion of the development without the previous written consent of the Local Planning Authority.

Temporary fencing for the protection of all retained trees/hedges on site during development shall be erected, to a minimum height of 1.2 metres, below the outermost limit of the branch spread, or at a distance equal to half the height of the tree, whichever is the further from the tree.

Such fencing should be erected in accordance with BS 5837:2005, or any replacement thereof, before any materials or machinery are brought onto site and before any demolition or development, including erection of site huts, is commenced.

This protective fencing shall be maintained on site until the completion of development, and nothing should be stored or placed, nor shall any ground levels be altered, within the fenced area without the previous written consent of the Local Planning Authority.

There shall be no burning of any material within 10 metres of the extent of the canopy of any retained tree/hedge.

If any retained tree/hedge is removed, uprooted or destroyed or dies, replacement planting shall be carried out in the first available planting season of such species, sizes and numbers and in positions on site as may be specified in writing by the Local Planning Authority.

5) None of the dwellinghouses hereby permitted shall be occupied until a landscape management plan including long-term design objectives, management responsibilities and maintenance schedules for all areas of public open space, proposed orchard and existing retained hedgerows has been submitted to and approved in writing by the Local Planning Authority. Thereafter the public open space, proposed orchard and existing retained hedgerows shall be managed and maintained in accordance with the approved details.

6) Prior to the commencement of construction work on any of the dwellinghouses hereby permitted, drainage plans for the disposal of foul sewage shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

7) Notwithstanding the submitted information, and prior to the commencement of development, details of a scheme for the provision and implementation of a surface water regulation system shall be submitted to the Local Planning authority for approval in writing. The scheme shall include drainage details showing how the development complies with the water management statement dated March 2013 reference 3445, flood risk assessment submitted March 2013 Ref: SHF.1055.001.R.001.A and subsequent modelling data as approved by the Environment Agency on the 21 October 2013. The scheme should ensure no increase in run-off from the site for all flood events up to the 100 year storm event with allowances for climate change. The surface water drainage scheme should identify any possible overland flood flow routes that could occur, and ensure no properties are affected. A scheme for maintenance and adoption of the drainage system should also be provided for approval in writing. A surface water drainage scheme shall be implemented in accordance with approved details prior to the occupation of the first dwelling hereby approved or in accordance with an alternative timetable approved in writing by the Local Planning Authority. Once provided the drainage system shall be maintained in accordance with the approved maintenance scheme.

8) Prior to the commencement of construction work on any of the dwellinghouses hereby permitted, details of external facing materials and roof materials shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details.

9) Construction work and deliveries to and from the site in connection with the development hereby approved shall only take place between the hours of 08.00 and 18.00hrs Monday to Friday and 08.00 and 13.00hrs on a Saturday. There shall be no construction work or deliveries to and from the site on Sundays or Bank Holidays.

10) Prior to the commencement of construction work on any of the dwellinghouses hereby permitted, the precise floorslab levels of each new dwelling on a plot adjacent to the southern or eastern boundaries of the site or 'Sandcroft', relative to the existing development, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details.

11) Prior to the commencement of construction work on any of the dwellinghouses hereby permitted a plan indicating the positions, design, materials and type of boundary treatment to be erected as part of the proposed development shall be submitted to and approved in writing by the local planning authority.. The boundary treatment shall be completed before the dwellings hereby approved are first occupied or in accordance with a timetable approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

12) The window(s) at first floor level on the south face of the building(s) on plots 95, 105 and 125 shall be fitted with obscured glazing and shall be non-opening or with openings at high level only (not less than 1.8m above floor level).

13) Construction works on the new vehicular access hereby permitted shall not begin until details of the residential junction arrangements with Leamington Road together with the new footpath and improved footways have been submitted to and approved in writing by the Local Planning Authority. None of the dwellings hereby approved shall be occupied until the access and new/improved footways have been constructed in accordance with the approved details.

14) The development hereby permitted shall not begin until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The approved statement shall be adhered to throughout the construction period. The statement shall provide for:

- a) The parking of vehicles of site operatives and visitors;
- b) Loading and unloading of plant and materials;
- c) Storage of plant and materials used in constructing the development.
- d) Site offices
- e) Wheel washing equipment

15) Construction works on the new roadways hereby approved shall not begin until the engineering details and specification of the proposed residential roads and highway drains have been submitted to and approved in writing by the Local Planning Authority. The roadways and drainage shall be constructed in accordance with the approved details.

16) The dwellings hereby permitted shall not be occupied until visibility splays, individual vehicular accesses, entrances, turning areas and individual parking spaces and parking courts as shown on the approved plan have been properly

consolidated, surfaced, drained and otherwise constructed in accordance with details to be submitted to and approved in writing by the Local Planning Authority and these areas shall thereafter be retained and kept available for those uses at all times.

17) Prior to the first occupation of any individual dwelling hereby approved secure parking for 2 cycles to serve a 1 and 2 bedroom units and 4 cycles to serve a 3 and 4 bedroom dwellings in compliance with the Council's standards shall be provided within the curtilage of each dwelling without a garage and these facilities shall thereafter be retained for the parking of cycles only.

18) None of the individual dwellings hereby approved shall be occupied until roadways allowing vehicular access from Leamington Road to the dwellinghouse have been constructed.

19) No dwelling hereby permitted shall be occupied until a welcome pack promoting sustainable travel, the content of which has been approved by the Local Planning Authority in writing, has been provided therein for use by its residents.

* * *

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY: Peter Goatley of Counsel

He/She called

Andrew Ford BA(Hons)
Dip TP Dip UD MPhil
MRTPI

Senior Planning Officer, Wychavon District
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Timothy John Roberts
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FOR THE APPELLANTS: Jeremy Cahill QC

He/She called

Fiona McKenzie MA
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Bridgehouse Property Consultants Ltd

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Hunter Page Planning Ltd

INTERESTED PERSONS:

Graham Love FRICS

Representing Broadway Parish Council,
Broadway Trust, Save Broadway Campaign and
Springfield Lane Association

Anthony Gleave

Formerly a local resident

INQUIRY DOCUMENTS

ID1 Extract from PPG Reference ID 2a-021-20150320

ID2 Planning Committee update report 24/04/14

ID3 Appellants' statement on Council's planning obligation requests

- ID4 Email: Heather Pearson to Mark Chadwick 14/01/15 @15.09
- ID5 Council internal memorandum to Heather Pearson from Kirstie May-Jones dated 14/01/15
- ID6 Appellants' opening statement
- ID7 Council's opening statement
- ID8 Statement from Mr Gleave
- ID9 Council notification letter and list of those notified
- ID10 Statement of behalf of Broadway Parish Council, Broadway Trust, Save Broadway Campaign and Springfield Lane Association
- ID11 Planning Committee Report 24/04/14
- ID12 Council's statement on planning obligation and CIL Regulation 123 compliance
- ID13 Court transcript [2015] EWHC 488 (Admin) *Stroud DC v SSCLG and Gladman Developments Ltd*
- ID14 Extract from PPG Reference ID: 3-028-20140306
- ID15 Appeal decision APP/C1625/A/13/2207324 (Bath Road, Leonard Stanley)
- ID16 Agreed list of suggested conditions
- ID17 Agricultural land classification (environs of Broadway By-pass)
- ID18 Appeal decision APP/F1610/A/12/2173305 (Bath Road, Tetbury)
- ID19 Draft planning obligation
- ID20 South Worcestershire Playing Pitch Strategy May 2015
- ID21 Appellants' comments on ID20
- ID22 Written Ministerial Statement SSCLG 25/03/15
- ID23 Council's closing submissions
- ID24 Appellants' closing submissions
- ID25 Court transcript [2014] EWHC 754 (Admin) *Bloor homes East Midland Ltd v SSCLG and Hinckley and Bosworth BC*
- ID26 Court transcript 2013 EWHC 2678 (Admin) *Hunston Properties Ltd and SSCLG and St Albans City and District Council*
- ID27 Court transcript [2013] EWCA Civ 1610 Re *Hunston*

CORE DOCUMENTS

CD 1 - National Planning Policy Documents

CD 1.1	National Planning Policy Framework (March 2012)
CD 1.2	Planning Practice Guidance (March 2014), including the following sections:
	<ul style="list-style-type: none"> • Appeals • Natural Environment • Design • Determining a planning application • Housing and economic land availability assessment

CD 2 – Local Planning Policy Documents

CD 2.1	Wychavon District Local Plan (June 2006)
CD 2.2	Developer Contributions for Education Facilities Supplementary Planning Document (April 2007)
CD 2.3	Affordable Housing SPG Nov 2002
CD 2.4	Developer Contributions Supplementary Planning Guidance (October 2003)
CD 2.7	Broadway Parish Plan 2005-2006
CD 2.8	Wychavon Five Year Housing Land Supply (July 2014)
CD 2.11	South Worcestershire Development Plan Proposed Submission Document (January 2013)
CD 2.13	Stage 1 of the Examination of the South Worcestershire Development Plan: Inspector's Further Interim Conclusions on the Outstanding Stage 1 Matters (31st March 2014)
CD 2.15	Progress Report on WDC 5 Year Land Supply (Oct 2014)
CD 2.17	Review of Wychavon Five Year Housing Land Supply - DLP Consultants (July 2014)
CD 2.21	Village Facilities and Rural Transport Study (December 2012)
CD 2.30	South Worcestershire Sports Facilities Framework 2010

CD 4 – AONB

CD 4.1	Cotswold Area of Outstanding Natural Beauty (AONB) Management Plan 2013-2018
CD 4.2	Cotswolds Conservation Board Position Statement on housing and Development in the AONB
CD 4.3	Cotswolds Conservation Board -

	i)Cotswolds AONB Landscape Character Assessment, ii) Cotswolds AONB Landscape Strategy and Guideline
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CD 5 – Design

CD 5.1	Broadway Village Design Statement (2008)
CD 5.2	Wychavon Residential Design Guide – Supplementary Planning Document September 2010
CD 5.3	Designing out Crime, an advice note

CD 7 – Appeal Decisions/High Court Judgements

CD 7.3	Appeal Decision – Land at Handcross, West Sussex (Appeal Ref: APP/D3830/A/13/2198213 and APP/D3830/A/13/2198214)
CD 7.4	Appeal Decision – Land off Station Road, Bourton-on-the-Water, Gloucestershire (Appeal Ref: APP/F/1610/A/13/2196383)
CD 7.15	Appeal Decision - Land at Stonebow Road, Drakes Broughton (Appeal ref APP/H1840/A/14/2218149)
CD 7.16	High Court Judgement – Neutral Citation Number: [2014] EWHC 573 (Admin), 10 th March 2014: South Northamptonshire Council, Secretary of State for Communities and Local Government and Barwood Land and Estates Limited
CD 7.18	Appeal Decision – Site at Land at Pulley Lane, Newland Road and Primslad Way, Droitwich Spa (Appeal Ref: APP/H1840/A/13/2199085 and APP/H1840/A/13/2199426)
CD 7.19	High Court Judgement – Neutral Citation Number [2014] EWHC 1283 (Admin), 30 th April 2014: Gallagher Homes Limited and Lioncourt Homes vs Solihull Metropolitan Borough Council
CD 7.20	Appeal Decision - Land to the south of Church Lane, Birdham, West Sussex (Appeal Ref: APP/L3815/A/13/2208162)
CD 7.21	Appeal Decision - Land at Staunton in Gloucestershire (APP/P1615/A/13/2204158)
CD 7.22	Appeal Decision - Springfield Lane and Averill Close, Broadway (APP/H1840/A/14/2215896)
CD 7.23	Appeal Decision - Cheltenham Road, Bredon (APP/H1840/A/14/2217607)
CD 7.24	Appeal Decision - Land South of Pershore Road, Evesham (APP/H1840/A/14/2222708)
CD 7.25	Appeal Decision - Land between Ashflats Lane and A449 Mossnit, Stafford (APP/Y3425/A/14/2217578)