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## Appeal Decision

Inquiry sitting days 12-15 November 2013

Site visit made on 11 November 2013

**by Neil Pope BA (HONS) MRTPI**

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

**Decision date: 10 January 2014**

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**Appeal Ref: APP/W1850/A/13/2192461**  
**Home Farm, Belmont, Hereford, HR2 9RX.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Lioncourt Homes (Development No.10) Limited against the decision of Herefordshire Council.
  - The application Ref. S122747/O, dated 27/9/12, was refused by notice dated 27/12/12.
  - The development proposed is residential development of up to 85 dwellings with access, associated open space, landscaping, infrastructure and parking provision.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. With the exception of the means of access, all other matters of detail have been reserved for subsequent consideration.
3. Both main parties informed me that the access details that were considered by the Council in December 2012 are those shown on drawing ref. 736-02. This forms Appendix C of the appellant's Transport Assessment (TA) dated September 2012. These details include a 2 metre wide footway immediately along the edge of Ruckhall Lane (C1199) and a visibility splay to the west measuring 2.4m x 210m. (The illustrative masterplan considered by the Council [drawing ref. Bir.3493\_10-H1] shows a 2m wide "off-road" footpath.)
4. Within an e-mail dated 3 April 2013, the Council confirmed that following the receipt of further information it would not be defending its fifth reason for refusal (archaeology). In a letter dated 18 June 2013, the Council stated that following the submission of additional information it would not be defending its sixth reason for refusal (proximity to a former land fill site).
5. At the Inquiry two planning obligations (under the provisions of section 106 of the above Act) were submitted. The first obligation was an agreement with the Council in respect of the provision of an element of affordable housing and various infrastructure contributions. The Council informed me that this agreement overcame the concerns identified within its seventh reason for refusal. The second obligation was a unilateral undertaking in respect of a landscape and habitat management plan. I return to these provisions below.
6. In October 2013, the Council submitted a supplementary Statement (including appendices). This Statement sets out the Council's change in stance in respect

- of housing land supply (HLS). At the Inquiry the Council argued that it had in excess of a five year HLS.
7. After the submission of the appeal the appellant produced a revised masterplan (drawing ref. BIR.3493\_10-N1). This includes alterations to the indicative site layout and some off-site planting. The appellant undertook a process of consultation<sup>1</sup> regarding this revised plan and has forwarded onto me a number of responses from some local residents. The revised plan does not alter the area of the appeal site (the red line plan) or the access details. Layout remains a reserved matter. Having regard to the Wheatcroft<sup>2</sup> principles, I agree with both main parties that if I were to take this amended illustrative plan into account it would be unlikely to prejudice the case of any party. In so doing, I shall also take into account the representations received from residents.
  8. In July 2013, the appellant submitted a 'Proposed Access Option Plan and Sections' (drawing ref. 736-06 Rev A). This does not alter the position of the proposed access but shows the footway set back from Ruckhall Lane. This footway arrangement is consistent with the above noted illustrative masterplans and has been the subject of consultation with the Council's highways officers. I shall also take it into account in determining the appeal.
  9. The main issue below differs from that which I gave at the opening of the Inquiry. I have amended it having heard all of the evidence and after reading the closing submissions of both main parties<sup>3</sup>.
  10. During the Inquiry it was stated, on behalf of the appellant, that an application for an award of costs would be made against the Council. It was agreed that this application (together with closing submissions) would be made in writing. This application is the subject of a separate decision.
  11. Following the receipt of closing submissions and the costs application (including various responses) I closed the Inquiry in writing on 18 November 2013.

## **Main Issue**

12. The main issue is whether, having regard to the supply of housing land within the district, the proposals would give rise to any adverse impacts, having particular regard to the likely effects upon the character and appearance of the area, the setting of designated and non-designated heritage assets and nature conservation interests, that would significantly and demonstrably outweigh the benefits of the scheme so as not to contribute to the achievement of sustainable development.

## **Reasons**

### *Planning Policy*

13. The development plan includes the Herefordshire Unitary Development Plan (UDP) which was adopted in 2007. It covered the period up to 2011. The Council accepts that the policies referred to within its decision notice relating to

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<sup>1</sup> I was informed that this included newspaper adverts, posting the details on the appellant's website and notifying all those individuals who were originally informed of the application by the Council.

<sup>2</sup> Bernard Wheatcroft Ltd v SSE [JPL, 1982, P37]

<sup>3</sup> This included reference to various judgements, including William Davis Limited and Jelson Limited v Secretary of State for Communities and Local Government ([2013] EWHC 3058 (admin)).

- housing land supply (H1 and H7) are out-of-date and has informed me that these should be given no weight in the determination of this appeal.
14. The most relevant UDP policies to the determination of this appeal are LA2 (landscape character), LA3 (setting of settlements), LA4 (protection of unregistered parks and gardens), NC1 (biodiversity and development), NC6 (biodiversity action plans), NC7 (compensation for loss of biodiversity) and HBA4 (setting of listed buildings). These policies pre-date the National Planning Policy Framework<sup>4</sup> ('the Framework') and, with the exception of UDP policy NC6 do not contain the 'cost-benefit analysis' that is set out within the Government's planning policies. As a result, there is some 'tension' between most of these local policies and 'the Framework'. Nevertheless, these UDP policies are broadly consistent with sections 11 and 12 of 'the Framework'.
  15. My attention has also been drawn to the emerging Hereford Local Plan Core Strategy (CS). This covers the period 2011-31 and has been subject to some public/stakeholder consultation. However, it has yet to be submitted for Examination and could be subject to change. Neither main party relies on any of the policies or proposals within this Plan and the Council has informed me that the CS is not sufficiently advanced to be given due weight in this appeal. The Council does however rely on some of the evidence base<sup>5</sup> in support of its arguments. As this underpins policies and proposals that have yet to be independently examined I can only give this evidence limited weight.
  16. In determining this appeal I have also taken into account the provisions of the Council's supplementary planning guidance (SPG) 'Landscape Character Assessment' (2004 and updated in 2009) and the separate SPG 'Biodiversity' (2004). These SPGs have been subject to a process of consultation and can be given moderate weight in this appeal.
  17. In July 2012, the Council adopted, for development control purposes, an Interim Protocol (IP). As set out in the agreed Statement of Common Ground (SoCG), the IP recognised the absence of a five year HLS<sup>6</sup> within the district and is aimed at ensuring that new housing development is located at sustainable locations. Notwithstanding the above noted change in stance by the Council in respect of HLS, the IP remains extant. The Council informed me that it would be reviewed following the outcome of this appeal. As this IP has not been subject to a process of stakeholder consultation it can only be given very limited weight in this appeal.
  18. The appeal site lies within a designated Neighbourhood Area. However, there is no Neighbourhood Development Plan in existence. I agree with the Council that this designation does not have any bearing upon the merits of this appeal.
  19. In determining this appeal I have taken into account the contents of relevant Written Ministerial Statements<sup>7</sup>, as well as the Government's housing strategy<sup>8</sup>.

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<sup>4</sup> 'The Framework' is a very important material consideration in the determination of the appeal. Paragraph 6 makes it clear that the purpose of the planning system is to contribute towards the achievement of sustainable development and that the policies in paragraphs 18 to 219, taken as a whole, constitute the Government's view of what sustainable development means. Paragraph 7 sets out the three dimensions to sustainable development – an economic role, a social role and an environmental role.

<sup>5</sup> Including the G L Hearn 'Local Housing Requirements Study Final Report: July 2011', the March 2012 'Update to Local Housing Requirement Study', the 'Herefordshire Local Housing Market Assessment 2012 Update: Draft Report' dated January 2013, the Strategic Housing Land Availability Assessment (SHLAA) Second Review 2012, the Urban Fringe Sensitivity Analysis (2009) and the Green Infrastructure Strategy (2010).

<sup>6</sup> Table 2 of the IP identifies a 4.17 years HLS

<sup>7</sup> 'Planning for Growth' dated 23 March 2011 and 'Housing and Growth' dated 6 September 2012

### *Housing Land Supply*

20. The appellant's preferred position, using the 2011-based household interim projections<sup>9</sup>, is that there is only 1.75 years HLS<sup>10</sup> within the district. This contrasts with the Council's position, based on the emerging CS requirement<sup>11</sup> that 6.9 yrs HLS exists<sup>12</sup>.
21. Neither of the housing requirements upon which the main parties rely have, in the context of paragraph 47 of 'the Framework' been objectively assessed. This is a matter to be determined as part of the forthcoming Examination of the CS<sup>13</sup>. In the meantime, proposals must be assessed having regard to the respective arguments concerning the merits of the differing requirements.
22. The housing requirement put forward by the appellant is based upon more up-to-date figures than those considered by the Council in its CS evidence base<sup>14</sup>. There is merit to using the 2011 projections as a basis for calculating HLS. However, I am also mindful of the Government's 'localism' agenda and its concerns in respect of targets being imposed upon local communities. In the circumstances therefore, if the Council is unable to demonstrate five years HLS against the emerging CS housing requirement<sup>15</sup> it would be failing to deliver in respect of its own requirements for meeting the market and affordable housing needs of the local community. This would be in conflict with the Government's objective to boost significantly the supply of housing and would lend considerable weight to the appellant's argument for granting permission.
23. There is agreement between the main parties on some aspects of the supply side of the HLS calculation. This includes sites with permissions (including a 10% discount) and UDP allocations (including a 10% discount). However, there is disagreement regarding other aspects, including the emerging CS strategic sites<sup>16</sup>. Footnote 11 of 'the Framework' advises that to be deliverable sites should be available now, offer a suitable location for development now and be achievable with a realistic prospect that housing will be delivered on site within five years and that development of the site is viable.
24. Sites do not have to have the benefit of planning permission to be deliverable and it is possible to include proposed strategic sites within assessments of HLS. Nevertheless, the examination into the CS has yet to commence and, as I have

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<sup>8</sup> 'Laying the Foundations' (November 2011)

<sup>9</sup> Produced by the Office for National Statistics (ONS)

<sup>10</sup> The appellant has argued that the housing requirement over the period 2011 to 2031 is 18,474 homes.

<sup>11</sup> This proposes a housing requirement of a minimum 16,500 homes between 2011-2031 and is a 'mid-range' figure from the above noted G L Hearn reports which are based on the ONS 2008-based population projections.

<sup>12</sup> The Council's initial proof of evidence dated 25 June 2013, reflects the 4.17 years HLS set out within the IP. Unlike the calculations in its 'rebuttal', the June 2013 assessment was based on the information gathered for the Council's Annual Monitoring Report over the previous 12 months. Whilst it is open to any party to prepare an assessment outside the conventional April-March period the 'rebuttal' does not factor into the HLS calculation the additional housing requirement that follows from rolling forward the assessment outside the AMR period.

<sup>13</sup> The Council informed me that there were unresolved objections to the CS housing provisions and accepted that these provisions could change as a result of the forthcoming Examination.

<sup>14</sup> This is not a criticism of the Council as new information will always be forthcoming during plan preparation.

<sup>15</sup> This should not be taken as a measure of support for the CS housing requirement which, as I have already noted, has yet to be examined. Moreover, four of the last five years of house completions reveal a shortfall against the housing requirement supporting the appellant's argument that there has been a persistent under delivery of housing and that a buffer of 20% rather than 5% (as argued by the Council) should be applied to the housing requirement.

<sup>16</sup> In total these would amount to 2,240 new homes.

already noted above, the evidence base carries only limited weight<sup>17</sup>. The Council's evidence concerning the delivery of these strategic sites includes developers' predictions for the 'build-outs'. However, this information was supplied for the purposes of highway modelling/infrastructure provision. As explained by the appellant's HLS witness<sup>18</sup>, such information tends to be optimistic so as to ensure that house building/sales are not held back whilst the necessary highway infrastructure is provided. More significantly, the Council's HLS witness informed me that none of the CS strategic sites were available now. These sites are not therefore 'Footnote 11' compliant and should not have been included within the Council's assessment<sup>19</sup>. Removing these sites from the Council's calculations results in less than five years HLS.

25. The Council's assessment of HLS also includes about 1000 homes from the SHLAA sites. The details of these have been interrogated both main parties. I also note that the Council's HLS witness has discussed the 'deliverability' of these sites with the relevant case officers. However, within the SHLAA a number of these sites are not expected to come forward within the next five years and the Council informed me that they would only be available now if they obtained planning permission. This supports the appellant's argument that these sites should also be excluded from a proper assessment of HLS.
26. There is evidence to support the Council's argument that windfall sites have consistently become available in the area. However, as argued by the appellant, this evidence is not robust in respect of the consistency and reliability of large sites. Whilst this element of HLS is also likely to be examined as part of the CS, on the basis of the evidence before me, the full extent of the Council's windfall allowance has not been adequately justified. It would therefore be inappropriate to include the Council's figure within the HLS.
27. My findings above lead me to the view that on the basis of the Council's housing requirement it does not have a five year HLS. If the appellant's requirement is used the deficiency is much greater but would be more than 1.75 years supply. As I have noted above, this weighs considerably in favour of granting permission. Whilst the appellant has argued that the extent of the shortfall adds further weight to the argument for approving the scheme there is no policy support for this. I note from some of the many appeal decisions that have been provided that on occasion the Secretary of State and some Inspectors have taken this approach. However, if the Council had just under a five year supply (which in this instance it does not) it would not diminish the considerable weight which I have attached to the scheme's contribution in reducing the shortfall in HLS. Similar findings were made at Honeybourne<sup>20</sup> and Kingstone<sup>21</sup> which are relied upon by the appellant in support of its case.

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<sup>17</sup> It appears that in giving no weight to the policies in the emerging CS but relying on the evidence base the Council may have thought this was akin to the situation regarding the now revoked RSS and the RSS evidence base. However, unlike the emerging CS, the evidence base to the RSS was objectively assessed.

<sup>18</sup> This witness has considerable experience of the house building industry, including assessing housing requirements and supply throughout the country, and is familiar with the development industry's responses to highway modelling. Whilst in no way critical of the Council's HLS witness, who was professional throughout the proceedings, she conceded that she was not an expert on such matters.

<sup>19</sup> They were not included as part of the HLS within the AMR, the IP or the Council's original proof of evidence. There is nothing of substance to support the Council's argument that they should now be taken into account.

<sup>20</sup> Paragraph 32 - APP/H1840/A/12/2171339.

<sup>21</sup> Paragraph 10 - APP/W1850/A/13/2195474.

### *Character and Appearance*

28. The appeal site is situated on the western fringes<sup>22</sup> of Hereford. It comprises open parkland<sup>23</sup> with some mature and veteran trees<sup>24</sup>. This 5.7ha site is bisected by a track<sup>25</sup> and is farmed<sup>26</sup> in association with Home Farm<sup>27</sup>. There is a vehicular access<sup>28</sup> into the site from the A465 to the south<sup>29</sup>. A hedgerow<sup>30</sup> runs along the south western boundary to Ruckhall Lane with some ancient woodland beyond. The Belmont Abbey complex and some housing lie further to the south west. Part of the site is accessible along public footpaths which link to the public open space and housing to the north and east.
29. The site forms part of the 'Herefordshire Lowlands' national landscape character area (LCA). Historic parks form a key component of this LCA. Within the Council's Landscape Character Assessment SPG this part of the district is identified as having a 'Wooded Estatelands' landscape character type (LCT). The key primary characteristic of this LCT are the large, discrete blocks of woodland. Key secondary characteristics include hedgerows used as field boundaries and large country houses set in parkland and ornamental grounds. I also note from this SPG that this LCT reflects the influence of a limited number of landowners over an extensive area of land. Within the SoCG both main parties have agreed that the site is "*visually relatively well contained.*"
30. Development has previously been permitted<sup>31</sup> within parts of the unregistered Belmont House Park and Garden. As I have already noted above, there is also housing immediately adjacent to the eastern edge of the parkland. Nevertheless, the appeal site with its unspoilt open qualities, important trees<sup>32</sup>, established hedgerow<sup>33</sup> along Ruckhall Lane and its agricultural use<sup>34</sup> has an unmistakable and very attractive parkland character. Ancient English Oak trees growing in a parkland setting is an alluring feature of the landscape. The site conveys the clear impression of having left the city and entered the surrounding countryside and creates a sense of tranquillity. It makes a significant contribution to the character of the area and is an integral part of this wider parkland setting and the attractive rural surrounds to Hereford.
31. From sections of the public footpaths adjacent to the site, including the footway along the A465, as well as from parts of Ruckhall Lane, the unspoilt open qualities of the site and the veteran trees growing within this area of parkland

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<sup>22</sup> The rear gardens of houses, including the group of three mid 19<sup>th</sup> century Grade II listed almshouses and chapel, and a former landfill site (now public open space) abut parts of the northern and eastern boundaries of the site. The hotel and golf course at Belmont House (Grade II\* listed) are located to the north west of the site with intervening parkland.

<sup>23</sup> This forms part of the unregistered Belmont House Park and Garden which extends to about 136.5 ha.

<sup>24</sup> Some of these trees, which include English Oak, are the subject of a Tree Preservation Order (TPO).

<sup>25</sup> This unmade track was created sometime in the mid 19<sup>th</sup> century and is a former driveway to Belmont House.

<sup>26</sup> At the time of my visit the site was being used for sheep grazing.

<sup>27</sup> The group of buildings at Home Farm, including a late 18<sup>th</sup> century Grade II stables, is adjacent to the site.

<sup>28</sup> I understand that this access was provided to serve the former landfill site.

<sup>29</sup> The Heywood Country Park lies on the opposite side of the A465.

<sup>30</sup> Both main parties agree this qualifies as an Important Hedgerow under the Hedgerow Regulations 1997.

<sup>31</sup> This includes the hotel and golf course adjacent to Belmont House and the housing south of the abbey complex. (This complex includes several listed buildings, including the 19<sup>th</sup> century Grade II listed monastery buildings and the 19<sup>th</sup> century Grade II\* listed Church of St Michael and All Angels.)

<sup>32</sup> Several are identified within the appellant's arboricultural assessment as 'Category A' trees (trees of high quality with an estimated remaining life expectancy of at least 40 years) under BS 5837:2012 'Trees in relation to design, demolition and construction - Recommendations'. I consider these and the 'Category B' trees growing within the site by virtue of their height, form and long-standing relationship with the surrounding pasture land also make a significant and very positive contribution to the landscape qualities of the area.

<sup>33</sup> This provides a continuous 'green corridor' along the lane.

<sup>34</sup> I agree with the Council that this farming land use is a vital component of the parkland character.

make a very pleasing contribution to the visual amenities of the area. It is evident from the representations made at application and appeal stage that this part of the countryside is cherished by a number of residents and is likely to add to the amenity value of these parts of the public realm. The evidence before me, including what I saw<sup>35</sup> during my site visit, indicates that these are popular paths. The site forms part of a valued landscape<sup>36</sup> and the setting to a number of neighbouring listed buildings. This is a sensitive site.

32. The appellant has calculated that the proposed 'development envelope' would extend to an area of 2.8ha (2.2% of the total area of parkland). The illustrative masterplan shows the new housing located towards the central and southern parts of the site. This would avoid building on the higher ground within the site and allow for some new parkland planting, including the reinstatement of parkland trees on land to the west (within the 'blue line' area)<sup>37</sup>. The landscaping within the site would include the retention of most of the existing trees and the construction of much new hedgerow<sup>38</sup>. The new houses could be set back from the A465 in an effort to retain green space along this part of the main road and public access would be provided through the site. I recognise that the appellant's designer has given thoughtful consideration to the landscape and visual impacts of the scheme.
33. Whilst in percentage terms the proposal would represent only a very small area of parkland that is not the 'planning test'. However well sited, designed and landscaped, the scheme would comprise a significant incursion of development and an extension of the western limits of the city into a very attractive and valued area of landscape. Although I note the appellant's argument that the scheme would ameliorate the "hard edge" of the existing residential development, the proposed dwellings and their associated paraphernalia, access roads, footways and the considerable increase in activity that would take place in and around the site would have a marked adverse effect upon the character and appearance of the area. The unspoilt open qualities of the site and its tranquillity would be substantially eroded. Moreover, its agricultural character, which is an essential part of this undeveloped area of parkland, would be lost. This would seriously harm the quality of the local environment.
34. Although the new housing could be set back from the trees, the setting of these long-standing landscape features and their splendour would be substantially diminished by the erosion of the open parkland within which they sit. The inclusion of limited areas of green space around some of these trees would be a wholly inadequate substitute for the unfettered expanse of pasture which is integral to their parkland setting and overall amenity value. I also share the Council's concerns that if the scheme was permitted incoming residents, who may at first consider the trees to be of value could, in time, perceive leaf litter, debris and decaying branches to be a nuisance. This could result in pressure being applied on the Council to remove these trees, which it could have difficulty in resisting. It is very far from certain that the proposals would secure the future health and well-being of these important trees.

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<sup>35</sup> As part of my visit I encountered several people using these footpaths and I noted the well-worn nature of the paths. It is not unreasonable to assume that these paths are likely to be even more popular at weekends.

<sup>36</sup> It was accepted on behalf of the appellant that, in the context of paragraph 109 of 'the Framework', the site formed part of a valued landscape.

<sup>37</sup> As provided for within the unilateral undertaking.

<sup>38</sup> The appellant has calculated that 341m of new hedgerow would be planted.

35. The proposed access works would include the translocation of part of the existing hedgerow along Ruckhall Lane. Even if the translocated hedgerow survived the rigours of these works the loss of hedgerow and the gap created for the new road (including visibility splays) would disrupt the continuity of this important landscape feature. These works and the proposed new housing would introduce a suburban element along this lane and upset the existing pattern of field boundaries. This would greatly detract from its predominantly rural character and the setting of the retained parkland to the west.
36. When seen from the public realm, the proposed development would comprise an unwelcome encroachment into the parkland which abuts the existing built-up limits of the settlement. The houses, roads and footpaths would considerably detract from the rural setting of this part of Hereford. For most users of the adjacent public rights of way the proposal would be likely to reduce the amenity of these countryside paths.
37. The proposals would seriously harm key/important characteristics of the local landscape and considerably diminish the integrity of the parkland. It would also markedly detract from the largely unspoilt appearance and amenity of the area. This weighs very heavily against granting permission.
38. The reinstatement of parkland planting to the west of the site would provide potential future veteran trees and be of some limited benefit to the character and appearance of the area. However, neither this, nor the other suggested landscape planting would mitigate the environmental harm that I have identified above. The proposed public access through the site would also fail to 'compensate' for the loss of amenity that would ensue along sections of the existing footpaths. In any event, access through the site would be necessary to ensure that the development was adequately linked to neighbouring land uses and integrated within the existing urban fabric.
39. Whilst I note the proposals for the Hereford Relief Road the actual route has yet to be determined and the necessary funding secured. It is very far from certain that this road would bisect the parkland. Even if it did, the implications for the remainder of the parkland have not been established. This proposal does not add weight to the argument for allowing this appeal.
40. The Council and some residents have raised precedent as an issue. However, each case must be determined on its own merits and there is no evidence to support fears that the remainder of the parkland or any other parkland within the district is subject to pressure for similar development. There is nothing of substance to justify withholding permission on the basis of precedent. I note that this matter did not form part of the Council's reasons for refusal.
41. Given the above, the proposal would conflict with UDP policies LA2 and LA3 and would be at odds with the provisions of 'the Framework' which are aimed at protecting and enhancing valued landscapes.

#### *Setting of Heritage Assets*

42. The appeal site forms part of the setting of the above noted Grade II and Grade II\* listed buildings<sup>39</sup>. The significance of all of these designated heritage assets lies primarily in their architectural and historic fabric. However, as

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<sup>39</sup> In determining the appeal I have taken into account the duty under section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 regarding the affect upon the setting of listed buildings.



noted in the detailed listing descriptions, with the exception of the stables at Home Farm and Belmont House<sup>40</sup>, these buildings were commissioned by Francis Wegg-Prosser<sup>41</sup> as part of his vision<sup>42</sup> for a 'new city of God'.

43. The abbey complex and church were designed and built by E W Pugin and/or P Pugin. Many of the listing descriptions state: "*the group of Roman Catholic buildings at Belmont, which includes the abbey church of St Michael and All Angels, the Monastery, the Almshouses, the school and teacher's house and Belmont House with its chapel is one of the most complete surviving groups which resulted from the benefaction of a wealthy landowner in the mid-C19.*"
44. Many of the buildings in the abbey complex and Belmont House cannot be seen<sup>43</sup> from the appeal site. However, as set out in guidance<sup>44</sup> produced by English Heritage (EH), although views of or from an asset can be important, setting is also influenced by other environmental factors. In this instance, the open parkland character of the appeal site and its sense of tranquillity afford an appreciation of the significance of this group of Catholic buildings and their historical association with the almshouses. The character of the site also assists in alluding to the affluence of the former occupiers of Belmont House. It makes a positive contribution to the setting and significance of these designated heritage assets.
45. The listed stables at Home Farm were built contemporary with Belmont House. However, a separate stable block existed immediately alongside this Grade II\* listed house and the track across the appeal site and adjacent to Home Farm was not the original driveway. There is also other evidence<sup>45</sup> to suggest that these listed stables were not built to serve the Belmont House. As I saw during my visit, these stables form part of a farmyard that is now largely screened from the appeal site. Nevertheless, the site forms part of the rural setting to these stables which have historical associations with the Belmont Estate and the surrounding countryside. Unlike the residential development to the east, the appeal site makes a positive contribution to the setting of the listed stables.
46. The illustrative masterplan shows the proposed dwellings set back from the entrance to the abbey complex and not extending beyond the common boundary with the almshouses. An area of green space is also indicated adjacent to Home Farm. Such a layout would retain some views across the site towards the church tower although other views<sup>46</sup> would be lost. In addition, the development would result in the loss of a sizeable area of open parkland/countryside which is of importance to the significance of the above noted listed buildings. The proposed housing would intrude into the setting of some nationally important buildings of special interest and two particularly important buildings of more than special interest. The erosion of the unspoilt open qualities of the site and its tranquillity, along with the loss of agricultural

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<sup>40</sup> This was designed by James Wyatt for John Matthews but was extended and drastically remodelled in c1860 by E W Pugin for F C Wegg-Prosser.

<sup>41</sup> Former owner of the Belmont Estate and MP for Herefordshire.

<sup>42</sup> In 1852 Wegg-Prosser converted to Roman Catholicism after he had commissioned Richard Cromwell Carpenter to design the listed almshouses.

<sup>43</sup> There are views of the church tower. Views of the almshouses can also be seen from the appeal site.

<sup>44</sup> 'The Setting of Heritage Assets' (2011)

<sup>45</sup> Notes by P Davenport MIFA, FSA – Appendix A11 to Ms Stoten's proof of evidence.

<sup>46</sup> Although these would not be public views the 2011 EH guidance states that the contribution that setting makes to the significance does not depend on there being public rights or an ability to access or experience that setting.

character, would distract from an appreciation of these designated heritage assets and harm their group value<sup>47</sup>/significance.

47. For the stables at Home Farm, the proposed extension of the settlement edge around this asset would, in effect, bring this traditional farm building within the urban envelope and disconnect it from the countryside. This would mar the setting of the stables and erode the significance of this important rural building.
48. The proposal would conflict with the provisions of UDP policy HBA4. In the context of 'the Framework' this would amount to less than substantial harm to the significance of these designated heritage assets. However, this would be greater than the "*negligible impact*" that has been argued by the appellant. 'The Framework' seeks to conserve heritage assets in a manner appropriate to their significance and affords great weight to their conservation.
49. The less than substantial 'harms' to the designated heritage assets that I have identified all weigh against granting planning permission. However, there is no cogent evidence to support the Council's argument that these accumulate and result in substantial harm to buildings of group value
50. The appellant has drawn my attention to the 20<sup>th</sup> century development that has taken place alongside the abbey complex, as well as the development at Belmont House and the housing adjacent to the almshouses and Home Farm. This development has had an adverse effect upon the settings of the above listed buildings. However, I do not know the full circumstances or the 'planning balance' which led to these schemes being approved. Furthermore, in all likelihood, the circumstances today are materially different to those which existed when these other schemes were considered. These previous decisions do not set a precedent for the proposals before me. If anything, they increase the value of the remaining undeveloped parkland which is of significance to these listed buildings. This does not lend weight to the appellant's argument for allowing the appeal.
51. Both main parties have provided much information regarding the history of Belmont House and its parkland. This includes detailed research and evidence by Mr Whitehead<sup>48</sup> which indicates the past involvement of Uvedale Price, Humphry Repton and later, A M Nesfield, in the design and repair of the parkland. However, this research and evidence has been carefully considered<sup>49</sup> by EH's Designation Department and Belmont has not been included<sup>50</sup> within the national Register of Parks and Gardens. I must therefore treat the parkland as a non-designated heritage asset and have regard to the provisions of paragraph 135 of 'the Framework'.
52. Whilst a non-designated asset has less standing when considering the planning merits, the appeal site forms part of a historic park and garden which has been identified by the Council, in association with the Herefordshire and Worcester Gardens Trust, as an unregistered park and garden of local importance. I have already noted above that historic parks are a key component of this LCA and are afforded protection within the development plan.

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<sup>47</sup> Excluding the stables at Home Farm.

<sup>48</sup> A leading figure on historic parks and gardens.

<sup>49</sup> Whilst Nesfield is not mentioned in the documentation from EH it would appear that a copy of Mr Whitehead's proof of evidence was provided to EH when they reviewed the decision not to register the parkland. It is reasonable to assume therefore that EH took this into account.

<sup>50</sup> I note in particular the Conclusion to the EH report where, amongst other things, it is considered that the landscape does not survive sufficiently well to justify registration.

53. In addition to the contribution the appeal site makes to the setting of the above listed buildings and the character and appearance of the area, this sizeable area of land with mature and veteran trees and a former driveway to Belmont House is an integral part of the wider Belmont parkland. Although it may have formed a later addition to the parkland and does not feature in views from the house or the River Wye, it adds to the significance of this designed landscape.
54. The proposed houses and roads would be a wholly discordant addition to the Belmont parkland. It would erode its picturesque qualities and largely extinguish the scene of piety which can still be appreciated in and around the appeal site. I have already found above that the development would considerably diminish the integrity of the parkland and this harm would not be overcome or outweighed by the proposed new planting. The proposal would conflict with UDP policy LA4.

#### *Nature Conservation Interests*

55. It is agreed between the main parties that the veteran trees and the grassland<sup>51</sup> growing within the site are the two main elements of this UK and Herefordshire Biodiversity Action Plan (BAP) Priority Habitat<sup>52</sup>. The ancient woodland on the opposite site of Ruckhall Lane also comprises part of a UKBAP priority habitat. Under cross-examination, the appellant's ecological expert informed me that the hedgerow growing along the boundary with Ruckhall Lane was also a BAP Priority Habitat. This witness described this as a "*high quality hedgerow*". The appellant also accepts that the hedgerow along part of the north eastern boundary of the site is likely to qualify as a UKBAP Habitat.
56. The main parties also agree that, notwithstanding the fact that the appellant's reptile survey does not meet Natural England's requirement of 7 survey visits, the site provides a sub-optimal habitat for reptiles. It is also agreed that the areas with particular reptile interest are situated at the margins of the site<sup>53</sup>. Three invertebrate surveys were also undertaken on behalf of the appellant. It is also agreed that this provides a snapshot of invertebrate interest<sup>54</sup> and that the Oak and Sweet Chestnut trees within the site support a rich invertebrate fauna<sup>55</sup>. However, further survey work<sup>56</sup> was recommended by the appellant's invertebrate consultant and has not been undertaken. Separate survey work reveals a number of bats using the site<sup>57</sup> and a moderate assemblage of breeding birds, although no rare or notable species have been recorded.
57. Notwithstanding the extensive grazing of this area of parkland, the appeal site is of ecological interest, especially the veteran trees<sup>58</sup> which are of high ecological interest. As argued by the appellant, this could be limited to a local

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<sup>51</sup> The appellant's grassland surveys, which were undertaken at sub-optimal times of the year, identified about 10 different grasses and about 18 different herbs.

<sup>52</sup> The site forms part of a UKBAP priority habitat identified as 'Wood-Pasture & Parkland'.

<sup>53</sup> Two juvenile Slow Worms were recorded at the north eastern site boundary.

<sup>54</sup> The main parties agree that no outstanding intrinsic invertebrate interest was recorded.

<sup>55</sup> Although the Council is critical of aspects of the appellant's separate lichen and bryophyte survey, no such survey was requested or undertaken by the Council. This survey work, by an experienced consultant, indicates a low number of species and none of a rare nature. There is nothing of substance to doubt the conclusions of the survey that this is due to high nutrient levels/pollution caused by the pasture land being heavily grazed by sheep.

<sup>56</sup> A "*significantly extended survey*" which also takes "*into account the hedgerows as well as the veteran trees*" was recommended.

<sup>57</sup> No bat roosts were detected.

<sup>58</sup> The English Nature (now Natural England) publication 'The Future for Veteran Trees' notes that such trees are important for many forms of wildlife.

level of interest. However, in the absence of extended survey work in respect of the veteran trees and hedgerows, the level of interest could be higher.

58. The proposal would include a conservation management plan for part of the site and an adjoining area of parkland. This would remove/reduce grazing around the trunks of the veteran trees and part of the remaining pasture would be seeded with wildflowers. New tree planting would also take place to secure a succession of veteran trees in part of the retained area of parkland. As I have already noted above, new hedgerows would also be provided within the site. In addition, bird and bat boxes would be provided. These measures could increase biodiversity interests.
59. However, the scheme would involve the loss of about 2.8ha of UKBAP Wood-Pasture & Parkland Priority Habitat. This would sit uncomfortably with the Council's aims for enhancing this area<sup>59</sup> and whilst there is evidence that grazing levels are high, grazing animals are fundamental to the existence of this habitat. The scheme would also disrupt the hedgerow along Ruckhall Lane. Even if a 'hop-over' was included as part of the proposed access works<sup>60</sup> it is very far from certain that this would be successful in avoiding disturbance to invertebrates, bats or other species that may use this green corridor. The proposals would also considerably increase activity<sup>61</sup> in and around the site and be likely to cause further disturbance to wildlife. Incoming residents may also be less tolerant to the sight of dead and decaying wood<sup>62</sup> in veteran trees than a farmer with sheep grazing the land. This could result in future pressure being applied on the Council to remove wood that is of biodiversity interest.
60. Overall, the proposal would be likely to have a broadly neutral effect on biodiversity interests and be consistent with UDP policies NC1, NC6 and NC7.

#### *Benefits of the Scheme*

61. The proposals would assist in addressing the shortfall in housing supply within the district and contribute towards achieving a five year supply of housing. It would also increase choice of housing and accord with the Government's objective to boost significantly the supply of housing. The affordable housing element<sup>63</sup> of the scheme would assist in meeting housing needs of the local community. These are important matters which can be given considerable weight in the determination of this appeal.
62. The development would assist in supporting local services and facilities, as well as strengthening the construction industry. These economic considerations can be given much weight in determining this appeal. The proposal would also provide the Council with additional revenue via the New Homes Bonus.

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<sup>59</sup> Green Infrastructure Strategy: Herefordshire (LDF 2010) Report.

<sup>60</sup> No such feature is shown on the access details which I am being asked to consider as part of the appeal.

<sup>61</sup> Including noise and external lighting.

<sup>62</sup> The importance of this to wildlife is noted in the publication 'Ancient Tree Guide no.6: The Special Wildlife of Trees' by the Woodland Trust and the Ancient Tree Forum.

<sup>63</sup> The evidence before me indicates that there is a considerable need for affordable housing within the district. I agree with both main parties that this element of the S106 agreement would accord with the provisions of paragraph 204 of 'the Framework'. I have therefore taken it into account in determining the appeal.

### *Other Matters*

63. The TA demonstrates that the proposals would be unlikely to compromise highway safety interests. Both main parties also agree that the site is in a sustainable location, in close proximity to bus stops with regular services into the city centre. Cycle routes are available within the neighbouring residential development to the east and there are footways throughout the area and crossing facilities at key junctions<sup>64</sup>. It is also agreed that the site allows easy access to employment opportunities within the city centre. This lends weight to the appellant's argument for releasing this site for housing development.
64. Nevertheless, some incoming residents would travel by car during the peak morning and evening periods. I note during these periods the A465/A49 is congested with long queues<sup>65</sup>. The appeal scheme would add to this congestion and would likely to further inconvenience existing road users during these periods. However, the TA states that the proposal would not have a material impact when compared to the existing situation. Neither the Council nor the Highways Agency raised highway objections to the scheme.
65. In the context of paragraph 32 of 'the Framework' the transport impacts of the development would not be "severe". It would therefore be unsound to withhold permission on the basis of the limited increase in congestion. Whilst commonsense would suggest avoiding making a bad situation worse, I shall not treat this as a 'harm' when I undertake the overall planning balance.
66. I also note the concerns of some residents regarding drainage and water supply. However, the appellant's Flood Risk Assessment and drainage strategy demonstrate that the proposal would not increase the risk of flooding. There is also no technical or other cogent evidence to demonstrate that the proposal would cause foul sewage problems in the surrounding area or cause water supply problems. I note that neither the water company nor the Environment Agency objected to the scheme.
67. Both main parties have drawn my attention to many appeal decisions<sup>66</sup> on sites elsewhere. However, I have determined this case on its own merits. I concur with the findings of the Inspector at Alsager<sup>67</sup> who remarked that it is rarely the case that appeal decisions on other sites will bring to light parallel situations and material considerations which are so similar as to provide justification for decisions one way or another.

### *Planning Balance/Overall Conclusion*

68. The proposed planting, parkland management and measures intended to enhance biodiversity interests do not overcome or outweigh the harm that I have identified to the character and appearance of the area. As a consequence, the proposal would be at odds with the environmental role/dimension to sustainable development. Moreover, notwithstanding the shortfall in HLS, these adverse environmental impacts and the harm to the setting of heritage assets that I have also identified would significantly and demonstrably outweigh the economic and social dimensions/benefits of the

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<sup>64</sup> This has the potential to reduce travel by car.

<sup>65</sup> This is also referred to in the numerous letters of representation that have been made by local residents. I appreciate that this likely to considerably inconvenience those travelling during these parts of the day.

<sup>66</sup> In total about 30 decisions have been provided. In all likelihood, this has also added to the complexities of the case for those members of the local community who were following the proceedings.

<sup>67</sup> Paragraph 68 – APP/R0660/A/13/2195201

scheme. The proposal would therefore fail to contribute to the achievement of sustainable development. The appeal should not therefore succeed.

*Neil Pope*

Inspector

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Ms J Wigley of Counsel She called	Instructed by the Solicitor for the Council
Mrs B Symons BSc (Hons), ALGE	Former Senior Ecologist (Planning)
Mrs A Neill CMLI	Former Senior Landscape Officer
Mr D Whitehead MA, FSA	Former Head of History at Hereford Sixth Form College and specialist in landscape and architectural history.
Miss K Gibbons BA (Hons), Bpl, MRTPI	Principal Planning Officer

### FOR THE APPELLANT:

Mr J Cahill Q C He called	
Mr J Peachey BSc (Hons), MLD, CMLI	Landscape Design Director, Pegasus Group
Ms G Stoten BA (Hons), MIFA, FSA	Principal Heritage Consultant, Cotswold Archaeology
Mr A Baxter BA (Hons), MA, MSc, CEnv, MCIEEM	Director, Aspect Ecology
Mr A C Bateman BA (Hons), TP, MRTPI, MCMI, MIOd, FRSA	Managing Director, Pegasus Group

### INTERESTED PERSONS:

Mrs K M Keeler	Resident
Fr. Simon McGurk	Belmont Abbey
Cllr P J Edwards	Member of Belmont Rural Parish Council, Ward Member of Herefordshire Council and Mayor of Hereford City Council
Cllr A N Bridges	Member of Belmont Rural Parish Council and Ward Member of Herefordshire Council
Cllr J Thorne	Clelonger Parish Council
Mrs J Patton	Hereford and Worcester Gardens Trust (HWGT)

### LIST OF DOCUMENTS SUBMITTED AT THE INQUIRY:

Document 1	Opening Statement on behalf of the appellant
Document 2	Opening Statement on behalf of the Council
Document 3	Mrs Keeler's Statement
Document 4	Fr McGurk's Statement

Document 5	Cllr Bridges's Notes
Document 6	Note from Cllr Thorne
Document 7	Mrs Patton's Statement
Document 8	E-mail from HWGT to English Heritage dated 15 July 2013
Document 9	Appendix 12 to Mr Whitehead's proof of evidence
Document 10	Copy of listing description for Belmont House
Document 11	Photographs of Home Farm
Document 12	HLS Tables 1, 2 and 3 prepared by the appellant
Document 13	HLS Tables 1, 2 and 3 prepared by the Council
Document 14	Matters in Dispute – HLS
Document 14	The Council's Position Statement in respect of HLS
Document 15	HLS spreadsheet
Document 16	Extracts from the proposed Hereford Relief Road study
Document 17	Translocating Wildlife Habits guide
Document 18	E-mail from Pegasus Planning in respect of TPOs
Document 19	Note from the Council – Consultation with Natural England
Document 20	E-mail from Pegasus Planning re: the arboricultural report
Document 21	Landscape Character Assessment SPG – Consultation
Document 22	Section 106 planning agreement
Document 23	Section 106 unilateral undertaking
Document 24	Playing pitch assessment for the S106 agreement
Document 25	Suggested planning conditions
Document 26	Timetable for closing submissions and the costs application

DOCUMENTS SUBMITTED AFTER THE INQUIRY WAS ADJOURNED ON 15/11/13

Document 27	Closing submissions on behalf of the Council
Document 28	Closing submissions on behalf of the appellant
Document 29	The appellant's costs application
Document 30	The Council's response to the costs application
Document 31	The appellant's response to the Council's closing submissions
Document 32	The appellant's response to the Council costs response



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