



The Planning Inspectorate

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# **Report to Malvern Hills District Council Worcester City Council and Wychavon District Council**

**by Roger Clews BA MSc DipEd DipTP MRTPI**

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

**Date 4 February 2016**

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PLANNING AND COMPULSORY PURCHASE ACT 2004 (AS AMENDED)

SECTION 20

## **Report on the Examination of the South Worcestershire Development Plan**

The Plan was submitted for examination on 28 May 2013

The examination hearings were held between 1 October 2013 and 17 June 2015

File Ref: PINS/H1840/429/1

## Abbreviations Used in this Report

2004 Act	The <i>Planning and Compulsory Purchase Act 2004</i> (as amended)
2012 Regs	The <i>Town and Country Planning (Local Development) (England) Regulations 2012</i>
AA	Appropriate Assessment
AONB	Area of Outstanding Natural Beauty
BMV	Best and Most Versatile
CIL	Community Infrastructure Levy
CO2	Carbon dioxide
The Councils	The South Worcestershire Councils
dpa	dwellings per annum / dwellings each year
DPD	Development Plan Document
FICs	Inspector's Further Interim Conclusions
GCN	Great crested newts
GTAA	Gypsy and Traveller Accommodation Assessment
ICs	Inspector's Interim Conclusions
LDS	Local Development Scheme
LP	Local Plan
LPA	Local Planning Authority
MDS	Major Developed Site
MM	Main Modification
NPPF	<i>National Planning Policy Framework</i> (March 2012)
The Plan	<i>South Worcestershire Development Plan</i>
PM	Proposed Modification
PPG	<i>Planning Practice Guidance</i>
PPTS	<i>Planning policy for traveller sites</i> (August 2015)
SA	Sustainability Appraisal
SCI	Statement of Community Involvement
SHMA	Strategic Housing Market Assessment
SPD	Supplementary Planning Document
SWDP	<i>South Worcestershire Development Plan</i>
TA	Transport Assessment
WWA	Wider Worcester Area

## Non-Technical Summary

This report concludes that the South Worcestershire Development Plan [SWDP] provides an appropriate basis for the planning of Worcester city and the Malvern Hills and Wychavon districts, provided that a number of modifications are made to the plan. The South Worcestershire Councils have specifically requested me to recommend any modifications necessary to enable the plan to be adopted.

The modifications all concern matters that were discussed at the examination hearings. Following the hearings, the Councils prepared a schedule of the proposed modifications and carried out sustainability appraisal [SA] of them. The modifications were subject to public consultation over a six-week period. In a few cases I have amended their detailed wording in the light of the responses. I have recommended that the modifications be included in the SWDP after considering all the representations on them made in response to consultation.

The purposes of the recommended modifications can be summarised as follows:

- To increase the Plan's housing and retail floorspace requirements to reflect my recommendations following Stage 1 of the examination;
- To make additional site allocations in order to meet the increased development requirements, and to update other site allocations in the light of changed circumstances;
- To delete one site allocation (SWDP52/3, Green Lane, Malvern Wells) which is considered unsound;
- To provide greater clarity about the Plan's development strategy, its approach to development in the Green Belt and the open countryside, and the purpose and designation of Significant Gaps;
- To provide a sound and effective basis for securing the infrastructure necessary to support development;
- To provide effective mechanisms for monitoring the delivery of the development sought by the Plan and to address any failure in delivery;
- To ensure that the Plan's development management policies are fully effective and consistent with national policy;
- To eliminate duplication between policies, so that the Plan is clear and focused;
- To ensure that the requirements of the Plan's policies reflect the viability evidence and will facilitate development throughout the economic cycle; and
- To identify the previous development plan policies that are superseded by the policies in the SWDP.

## Introduction

### Scope and purpose of the examination

1. The South Worcestershire Development Plan [hereafter referred to as "the SWDP" or "the Plan"] is a joint development plan prepared by Malvern Hills District Council, Worcester City Council and Wychavon District Council ["the south Worcestershire Councils", or "the Councils"]. The power to prepare a joint development plan is given by section 28 of the *Planning and Compulsory Purchase Act 2004* (as amended) [the 2004 Act].
2. As the SWDP's name indicates, it covers the southern part of Worcestershire, taking in the whole of the three constituent Council areas. The Plan period runs from 2006 (reflecting the date when work on the SWDP began<sup>1</sup>) to 2030. It is intended to meet all development requirements in the area that are the responsibility of the Councils, with the exception of additional Gypsy and Traveller site provision to meet future needs. That additional provision will be identified in a forthcoming *Traveller and Travelling Showpeople Site Allocations DPD*, again produced jointly by the three Councils (see Issue 8 below).
3. This report contains my assessment of the SWDP in terms of Section 20(5) of the 2004 Act. It deals first with the duty to co-operate in the preparation of the Plan, as there is no scope to remedy any failure in this regard. It then considers whether the SWDP is sound and compliant with the other relevant legal requirements. The National Planning Policy Framework [NPPF] advises that in order to be found sound, a Local Plan should be positively prepared, justified, effective and consistent with national policy.
4. The starting point for the examination is the assumption that the south Worcestershire Councils have submitted what they consider to be a sound plan. The SWDP *Proposed Submission Document* [CD 001<sup>2</sup>], published for consultation in January 2013 and submitted without alteration for examination in May 2013, is the basis for my examination. I have also had regard to the Proposed Modifications published by the Councils in 2014<sup>3</sup>.

### Examination process

5. The examination was carried out in two stages. In Stage 1 I considered the soundness of the proposed employment land, housing and retail floorspace requirements set out in submitted policy SWDP 3, and whether or not the duty to co-operate in the preparation of the Plan had been met. Hearings were held in October 2013, following which I issued Interim Conclusions [ICs, EX/400b] on the Stage 1 Matters.
6. In my ICs, I concluded that the legal duty to co-operate in the preparation of the Plan had been met, and that the employment land requirement figure set out in submitted policy SWDP 3 C was soundly based. However, I identified fundamental shortcomings in the approach taken to the assessment of housing

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<sup>1</sup> I explain in Annex A, para 56, why I consider this start date to be appropriate.

<sup>2</sup> Where reference is made in this report to an examination document, the document number is quoted, eg [CD 001], [EX/101]. All the examination documents are available on the SWDP website.

<sup>3</sup> See the "Examination process" section below.

need, and other shortcomings in some of the assumptions about housing land supply. I also found that the retail floorspace requirement figures in submitted policy SWDP 3 F ought to be revised to reflect more recent evidence.

7. The Councils undertook to carry out further work to rectify the shortcomings I had identified, and a further round of hearings was held in March 2014 to consider it. On the basis of the Councils' further work I was able, in my subsequent Further Interim Conclusions [FICs, EX/505], to make a clear recommendation on the objectively-assessed need for housing in the Plan area. This recommendation, which was accepted by the Councils, resulted in a housing requirement figure of about 28,400 dwellings, substantially more than the figure of about 23,200 dwellings in the submitted Plan.
8. My ICs and FICs, which form Annex A and Annex B to this report, took account of all the relevant representations made and evidence submitted at the time of their preparation. In order to avoid unnecessary repetition, I do not go over the ground they cover again in this report, but I refer to them where they are relevant.
9. Following the recommendations in my ICs and FICs, the Councils needed to carry out a further process of site assessment and sustainability appraisal, in order to identify sufficient housing land to meet the increased requirement. That process was completed by September 2014 and public consultation on the resulting Proposed Modifications [PMs] to the Plan took place in October and November 2014.
10. The examination was then able to move on to Stage 2, during which all the policy soundness issues that were not examined during Stage 1, and the soundness of all the proposed site allocations, were considered. The Stage 2 hearings were held between February and June 2015.
11. Because the PMs were subject to full public consultation, I am able to take them, and the representations made on them, into account when considering the policies (SWDP 2, 3, 15 & 17) and the site allocations to which they relate. However, for the sake of consistency, all the recommended Main Modifications [MMs] in the Appendix to this report are based on the Plan as originally submitted. This means that many of the changes that were first proposed as PMs are also included in the recommended MMs.

## **Consultation**

12. Several representors expressed concern about the adequacy of the consultation process on the Plan. The plan-making process is complex and I do understand that it can appear daunting, perhaps especially to those who become engaged at a late stage. However, the Councils carried out full and widespread public consultation on the Plan before its submission, on the PMs which they developed in response to my ICs and FICs, and most recently on the MMs.
13. Those consultations met all the relevant legal requirements, including compliance with each Council's *Statement of Community Involvement* [CD 034, 035, 036, 233b, 234b & 235b]. A wide range of representations were

received at each stage of consultation, including a substantial proportion that were critical of the Plan. From all this, it is clear to me that the consultation process gave residents and other interested persons an adequate opportunity to express their views.

## Main Modifications

14. In accordance with section 20(7C) of the 2004 Act the Councils asked me to recommend Main Modifications [MMs] to rectify any deficiencies that make the SWDP unsound or not legally compliant and thus incapable of being adopted. The recommended MMs are referenced in bold in the report (eg **MM15/02A**, **MM15/02B**, **MM15/03A**), and are set out in full in the Appendix.
15. The MMs all concern matters that were discussed at the examination hearings, with one exception, which is explained below. Following the hearings, the Councils prepared a schedule of the proposed MMs and carried out sustainability appraisal [SA] of them. The MMs were subject to public consultation for six weeks in October and November 2015 and I have taken account of the responses on them in coming to my conclusions in this report.
16. In the light of the consultation responses I have made some amendments to the detailed wording of the MMs, mainly in the interests of clarity and consistency. Where necessary I provide further explanation of them in this report. None significantly alters the content of the modifications as published for consultation, or undermines the participatory processes or SA.
17. In order to avoid over-complicating the consultation process, I advised the Councils that all the proposed modifications to each policy should be set out under a single MM number. This means that some MMs, which are relevant to more than one issue, are mentioned more than once in this report. It also means that, as well as the changes that are necessary for soundness, some MMs also include minor changes that could in principle have been made as additional modifications. This report does not explicitly refer to those minor changes, but I have taken account of any comments made upon them.
18. **MM15/Gloss** incorporates a number of changes and additions to the Plan's Glossary, to reflect changes to national policy guidance and to ensure that policy terms are clearly defined and thus effective.
19. Many of the MMs involve eliminating duplication and repetition between policies, in order to make them more focussed and effective. This led to concerns being expressed in the consultation responses about the removal of clauses from certain policies. However, the Plan is to be read as a whole. Where policy requirements apply generally, they do not need to be stated in more than one policy.
20. Since the consultation closed, **MM15/ANPFSW** and **MM15/AnnJ** have been added to the schedule, to make it clear that the SWDP's policies supersede all the policies in the former Local Plans of the three Councils. It is a legal requirement to include such a statement in the Plan<sup>4</sup>. Throughout the examination it has been clear from both the submitted list of *Superseded Local*

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<sup>4</sup> See Article 8(5) of the *Town and Country Planning (Local Development) (England) Regulations 2012* [the 2012 Regulations].

*Plan Policies and Proposals* [CD 009] and the Councils' adopted Local Development Schemes<sup>5</sup> that the SWDP will entirely supersede those earlier plans. Consequently I consider that no-one's interests are prejudiced by the fact that this modification was not subject to consultation.

21. The Councils may choose to make additional modifications to the SWDP before it is adopted, as long as they do not materially affect any of its policies<sup>6</sup>. These include any modifications necessary to bring the reasoned justification into line with the MMs to the policies.

## **Policies Map**

22. The Councils are required to maintain an adopted Policies Map which illustrates geographically the application of the policies in the adopted development plan<sup>7</sup>. For the SWDP area, the principal components of the existing adopted Policies Map are the Proposals Maps of each Council's previously-adopted Local Plan [CD 040, 042 & 046].
23. When submitting a Local Plan for examination, Councils are then required to provide a submission Policies Map showing the changes to the adopted Policies Map that would result from the proposals in the Local Plan<sup>8</sup>. For the SWDP, the submission Policies Map is the set of plans entitled *Changes from Adopted Proposals Maps*, May 2013 [CD 008]. Other proposed changes to the adopted Policies Map, showing additional and enlarged site allocations, were published alongside the PMs in 2014 [EX/604]. Both sets of changes are also shown on an interactive online policies map published on the SWDP website.
24. The Policies Map is not defined in statute as a development plan document and so I do not have the power to recommend MMs to it. However, a number of the published MMs to the Plan's policies require further corresponding changes to be made to the Policies Map. Those further changes to the Policies Map were published for consultation alongside the MMs<sup>9</sup>. In this report, I identify any amendments that are needed to those further changes in the light of the consultation responses.
25. When the SWDP is adopted, in order to comply with the legislation and give effect to the Plan's policies, the Councils will need to update the adopted Policies Map to include all the changes included in CD 008, EX/604, and the further changes published alongside the MMs (incorporating any necessary amendments identified in this report).

## **Assessment of Duty to Co-operate**

26. Section s20(5)(c) of the 2004 Act requires that I consider whether the Councils complied with any duty imposed on them by section 33A in respect of

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<sup>5</sup> CD031, 032a, 033, EX/610a, 610b, 610c.

<sup>6</sup> See s23 of the 2004 Act.

<sup>7</sup> See Article 9 of the 2012 Regulations.

<sup>8</sup> See Articles 22(1)(b) & 2(1) of the 2012 Regulations.

<sup>9</sup> See [http://www.swdevelopmentplan.org/wp-content/uploads/2015/10/mainMod2015\\_MappingChanges\\_v3.pdf](http://www.swdevelopmentplan.org/wp-content/uploads/2015/10/mainMod2015_MappingChanges_v3.pdf)

the Plan's preparation. I considered this question thoroughly in my ICs and concluded that the legal duty to co-operate in the preparation of the Plan had been met<sup>10</sup>. There has been no subsequent evidence to cause me to alter that view.

## Assessment of Soundness

### Main issues

27. The SWDP is divided into three main sections: strategic policies, generic policies (mainly for use in development management), and site allocation policies. My report generally follows this division in its consideration of the main issues. Taking account of all the representations, the written evidence and the discussions that took place at the examination hearings, I have identified **14 main issues** upon which the soundness of the Plan depends. They are considered in turn below.

### STRATEGIC POLICIES

***Issue 1 – Does the Plan sets out an appropriate vision and identify the key issues for south Worcestershire over the Plan period; and is policy SWDP 1 justified and consistent with national policy?***

28. The introductory sections of the SWDP contain a vision for south Worcestershire in 2030, a set of objectives, a description of the spatial context and the background to the Plan, including a context map, and discussion of a series of key issues. While the Councils will wish to update these sections to take account of changed circumstances since the Plan was submitted, there are no substantial matters of soundness that require MMs.
29. Policy SWDP 1 sets out principles to guide the Councils' approach to the consideration of development proposals. They reflect the positive and proactive attitude to achieving sustainable development that is encouraged by the NPPF. No MMs are necessary.
30. Subject to any additional modifications that the Councils may make, the Plan sets out an appropriate vision and identifies the key issues for the area over the Plan period. Policy SWDP 1 is justified and consistent with national policy.

***Issue 2 – Does policy SWDP 2 set out an appropriate settlement hierarchy and development strategy for the area, and is its approach to Significant Gaps and Green Belt justified and consistent with national policy?***

31. SWDP 2 sets out the development strategy for the Plan area, defines the area's settlement hierarchy, and provides guidance on the approach to a number of important policy topics.

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<sup>10</sup> See Annex A, paras 1-11.



32. As originally submitted, it was insufficiently clear that part A is not intended to give specific guidance on the response to development proposals, but rather to set out the principles underlying the Plan's strategy and site allocations. **MM15/02A** amends part A to make this clear. **MM15/02A & 02B** also clarify that the Plan will seek to deliver housing to meet the full, objectively-assessed need up to 2030, and that the effective use of brownfield land will be encouraged without holding back development on greenfield land<sup>11</sup>. These changes to parts A and G are required for consistency with national planning policy.

#### *Settlement hierarchy and development strategy*

33. A number of changes are made by **MM15/02A** to the text of the settlement hierarchy table in part B of SWDP 2 to clarify the terminology and the relationship between the hierarchy and other policies in the Plan. The hierarchy itself is soundly based on an assessment of the relative sizes and functions of each city, town and village and the facilities they contain. In particular, it recognises the leading role of Worcester as by far the biggest settlement and provider of services in the SWDP area, and the progressively more local roles played by the main and other towns and the larger villages. However, two amendments are required to the lists of villages in categories 3 and 4A, at Annex D of the Plan, to ensure that they properly reflect the evidence base. These are made by **MM15/AnnD**.
34. Subject to the necessary clarifications made by **MM15/02A**, the requirement in SWDP 2 F for development proposals to be of a scale and type appropriate to the size of the settlement, the location and landscape character and the availability of infrastructure, is sound. It reflects national policy that planning should take account of the different roles and character of different areas, and focus significant development in locations which are, or can be made, sustainable (NPPF paragraph 17). The statement in part B that windfall proposals will be assessed in accordance with the settlement hierarchy reflects the same policy approach.
35. The Plan uses development boundaries to define the extent of settlements, within which development is acceptable in general terms in accordance with SWDP 2 F. These boundaries include any contiguous development sites allocated in the Plan. It is difficult to see how effect could be given in development management decisions to the settlement hierarchy or to the national policy quoted in the previous paragraph, without defining development boundaries. They provide necessary certainty so that users of the Plan can understand what is likely to be permissible in any given location.
36. NPPF paragraph 55 advises that housing should be located where it will enhance or maintain the vitality of rural communities. Related guidance in the PPG states that *blanket policies restricting housing development in some settlements and preventing other settlements from expanding should be avoided unless their use can be supported by robust evidence*<sup>12</sup>. As indicated above, I consider the Plan's settlement hierarchy to be robustly evidence-based. The amount of development allocated by the Plan to each settlement,

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<sup>11</sup> See also **MM15/13B**.

<sup>12</sup> ID 50-001-20140306.

including the villages, and the way in which windfall proposals in each tier of the settlement hierarchy will be assessed, reflect the relative capacity of the settlements to support new development. In particular, they take account of the availability of infrastructure and services.

37. This approach is entirely consistent with the achievement of sustainable development. The Plan's policies do not place a "blanket" ban on development in any defined settlement. To the extent that they promote more development in some settlements than in others, that is a rational stance supported by sound evidence. In reaching these views, I have taken account of a 2013 appeal decision which was brought to my attention<sup>13</sup>. But the conclusions reached in that decision, on a single dwelling in a local authority area where there were no relevant adopted development plan policies, are not directly applicable to the very different tasks of making and examining a Local Plan.
38. The definition of the open countryside in Part C of SWDP 2 is also important, as the term is used in a number of other SWDP policies. In order to make them effective, amendments to Part C including a new footnote simplify the definition, especially in respect of the open countryside around Worcester city. Other changes made by **MM15/02A & 02B** are necessary to clarify the relationship between Part C and other policies, and to eliminate policy duplication.
39. SWDP 2 I is modified by **MM15/02A** in order to clarify the circumstances in which future unmet housing needs in other LPA areas would trigger the need for a review of the Plan, through the statutory duty to co-operate. The associated footnote was proposed for deletion by **MM15/02A**, but in the light of representations it is retained and updated. This will ensure that the Plan reflects the current situation with the emerging Joint Core Strategy for the neighbouring authorities of Gloucester, Cheltenham and Tewkesbury.
40. Finally, a new Part J is added to the policy by **MM15/02A & 02B**, in order to define the three policy Sub-Areas that form the basis for the broad development allocations made by policy SWDP 3. Both these changes are necessary in order to make the Plan effective.
41. The definition of the policy Sub-Areas is central to the Plan's development strategy. As I made clear in my ICs, an important factor in the decision of the three Councils to prepare the SWDP jointly is that Worcester city's built-up area is tightly constrained inside its boundaries. There is insufficient space in the city's administrative area to meet all its needs for development, especially housing. Hence policy SWDP 3 allocates a substantial share of the housing need arising in Worcester to five urban extensions just outside and abutting the city's administrative boundary, in both Malvern Hills and Wychavon districts.
42. As defined in SWDP 2 J, the Wider Worcester Sub-Area [WWA] comprises Worcester city itself and the urban extension areas around it. This reflects the role of the urban extensions in providing for Worcester's growth and their intended close functional relationship with the rest of the city. The Malvern

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<sup>13</sup> Ref APP/P3040/A/13/2191142.

Hills and Wychavon districts, excluding the urban extensions in the WWA, respectively make up the other two Sub-Areas. Because of natural and environmental constraints, the Malvern Hills Sub-Area is also seen by the Councils as having limited ability to accept new development. SWDP 3 therefore allocates part of its housing need to the WWA and part to Wychavon.

43. NPPF paragraph 47 exhorts LPAs to ensure that their Local Plan meets the full, objectively-assessed need for market and affordable housing in the housing market area<sup>14</sup>. As will be seen from the discussion of SWDP 3 below, the Plan achieves this for south Worcestershire. There is no specific requirement in national policy or guidance for each individual council to meet its future housing needs within its own boundaries: on the contrary, LPAs are encouraged to work with others to ensure that their full needs are met<sup>15</sup>. Thus there is no conflict in principle between the SWDP's Sub-Area approach and national policy. The soundness of the distribution of development between Sub-Areas is considered under Issue 3.

#### *Significant Gaps and Green Belt*

44. Significant Gaps are a local policy designation that has its origin in previous local plans for constituent parts of the SWDP area. Its purpose is to safeguard the generally open character of a limited number of areas of land which are important to the setting of settlements or to preserving their separate identities. It is a proportionate response to those objectives. The reasoned justification makes it sufficiently clear what kinds of development would still be appropriate in the Significant Gaps. There is no substantial evidence to support the view that the designation will jeopardise the achievement of the Plan's development goals. As will be seen later, the precise delineation of some Significant Gaps requires amendment, but in principle the policy designation is sound.
45. **MM15/02A** makes necessary amendments to the first sentence of SWDP 2 E to ensure that it properly reflects national policy towards development proposals in the Green Belt. The remainder of Part E, including Table 3, is concerned with what the Plan calls Major Developed Sites [MDS] in the Green Belt. These are extensive areas mainly consisting of previously-developed land, which for the most part are used for employment purposes. In order for the Plan to be effective, it is necessary for it to set out clearly the approach that will be taken to proposals for development on these important sites.
46. However, Part E as submitted did not provide enough guidance on what would make development proposals on MDS acceptable. This is remedied by **MM15/02A**, which sets out criteria that strike an appropriate balance between safeguarding the openness and purposes of the Green Belt and providing certainty over what is permissible within the boundaries of the MDS. The criteria are consistent with paragraph 89 of the NPPF.
47. **MM15/02A** also makes changes to the MDS themselves. Most significantly, it deletes one MDS altogether, recognising that it should not in fact form part of the Green Belt. This is the Roxel site, which sits at the edge of, and forms part of, the built-up area of Kidderminster. The Roxel premises are bisected

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<sup>14</sup> As far as is consistent with the NPPF's policies.

<sup>15</sup> See NPPF para 179.

by the boundary between Wychavon and Wyre Forest districts. The two halves of the site are identical in character and the Wyre Forest portion is not in the Green Belt. When the 1998 Wychavon Local Plan defined the precise extent of the Green Belt in Wychavon district, the Wychavon portion of Roxel (then known as the Royal Ordnance Site) was also specifically excluded from it in accordance with the inspector's recommendation.

48. From the relevant sections of the inspector's report on the subsequent 2006 Wychavon Local Plan, it is plain that there was no proposal in that plan to change that situation, nor was there any such recommendation from the inspector. In the event, however, the Wychavon part of the Roxel site appeared as part of the Green Belt on the 2006 Local Plan Proposals Map, evidently due to a drafting error. That error will now be rectified by the Councils making the necessary change to the SWDP Policies Map in order to remove the Green Belt notation from the site. This is necessary to make the Plan sound.
49. NPPF paragraph 83 advises that Green Belt boundaries should only be altered in exceptional circumstances, through the preparation or review of the Local Plan. It is debatable whether removing the erroneous Green Belt notation from the Roxel site actually involves altering the Green Belt boundary. But if it does, the exceptional circumstances justifying that step are: first, that there has never been any formal Local Plan proposal or inspector's recommendation to include it in the Green Belt; secondly, that it serves none of the Green Belt purposes, for the reasons set out in section 4 of the representations made on behalf of Roxel at pre-submission consultation stage; and thirdly, that there is an obvious and unjustifiable anomaly in the way in which the two halves of the site are treated, either side of the district boundary.
50. Adjustments are to be made to the boundaries of the MDS at Hartlebury Trading Estate, to properly reflect the actual extent of the site, and at Hindlip Park to include the existing Jacky Smith training centre, the shooting range and the sports field, which I consider to form part of the curtilage of the buildings on the site. These adjustments are shown on the plans that were published alongside the MMs. **MM15/02A** also adds a new MDS to the Plan: the Potter Group's Site 7 near Cutnall Green. This established employment site is comparable with the other designated MDS in size and density of built form, and thus its inclusion is necessary in order to ensure consistency of approach.
51. However, it would not be appropriate to include the SE Davis site at Astwood Bank as a MDS. This is because the evidence before the examination has not demonstrated that the site consists predominantly of previously-developed land. Only a relatively small part of it is occupied by permanent structures (including the proposed extension to Building 4). A much greater proportion is given over to open storage of recycled building materials and historic machines, and there are also substantial areas of open grassland. I understand that parts of the site have lawful existing use certificates for recycling and for storage, maintenance and viewing of vintage machinery. But such uses in themselves would not bring the land on which they take place into the category of previously-developed land as defined in the NPPF.

*Conclusion on Issue 2*

52. Subject to MM15/02A & 02B, which are necessary for soundness, policy SWDP 2 sets out an appropriate settlement hierarchy and development strategy for the area, and its approach to Significant Gaps and the Green Belt is justified and consistent with national policy.

***Issue 3 – Are the development requirements, and the provisions for meeting them, set out in policy SWDP 3 justified and effective?***

53. The purpose of policy SWDP 3 is to set out the amounts of employment land, housing and retail floorspace that are required in each of the three Sub-Areas<sup>16</sup> over the period to 2030, and to provide a summary of how those requirements will be met.
54. The housing and retail requirement figures are amended by **MM15/03A** (Tables 4b(i) and 4(c)), to reflect the recommendations made in my FICs. Subject to these amendments, the requirement figures in the policy are sufficient to meet the assessed levels of need in full. In particular, the overall housing requirement figure of about 28,400 dwellings and the total affordable housing requirement for 8,800 dwellings each meets the corresponding, full objectively-assessed need figure over the whole Plan period.
55. I see no need to alter the housing requirement figure to read “at least” 28,400 dwellings, as some representors have suggested. The stated figure of “about” 28,400 is what the Plan aims to deliver. It provides necessary certainty, including as a basis for calculating the five-year housing supply. However, there is no policy in the Plan that seeks to impose an arbitrary cap on development once that figure is reached.
56. In my ICs I noted that there was likely to be a gap between the need for affordable housing and the amount that could be specifically delivered through the Plan. But the uplift in the overall housing requirement now means that about 9,000 affordable dwellings can be provided in association with market housing schemes identified in the Plan, through the mechanisms set out in policy SWDP 15 (as modified)<sup>17</sup>. Additional affordable housing is likely to come forward through windfall development and Registered Provider-led schemes, giving further assurance that the identified need is likely to be met in full.

*Distribution of development*

57. As submitted, the SWDP allocated just over 40% of its total housing requirement, some 9,400 dwellings out of 23,200, to the Wider Worcester Area [WWA]. About 5,500 of those were to be in Worcester city and about 3,900 in the Worcester urban extensions. The shares for Malvern Hills and Wychavon, excluding the WWA, were around 21% and 38% of the total housing requirement respectively. The allocation of most housing (and

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<sup>16</sup> As defined by policy SWDP 2 J.

<sup>17</sup> See EX/913, section 11 & Appendix 3.

employment land and retail floorspace) to the WWA reflects its leading role in the settlement hierarchy, discussed under Issue 2 above.

58. The November 2012 *Sustainability Appraisal Report* [SA Report, CD 010] on the pre-submission version of the Plan documents the sequence of assessments that took place as the Plan progressed from *Issues and Options* in 2007 (when it was the Councils' intention to prepare a Core Strategy) through two *Preferred Options* documents before reaching submission stage.
59. It is clear from the SA Report how the housing distribution in the submitted Plan has evolved through a series of logical steps. The report explains the reasons for choosing the preferred option(s), and rejecting others. Table 7.1 of the report shows that policy SWDP 2 (the equivalent of what is now policy SWDP 3) would have positive or neutral impacts against each of the SA objectives, apart from Water where its impact was said to depend on the phasing and features of individual development sites. This matter is addressed by modifications to the site allocation policies (see Issue 14 below).
60. As is explained in the Introduction above, modifications to the supply totals in SWDP 3 were brought forward in response to the recommendation in my ICs for an increase of about 5,200 dwellings in the Plan's overall housing requirement. The WWA allocation increases to 12,150 dwellings, or around 43% of the new overall requirement for 28,400 dwellings, while the shares for Malvern Hills and Wychavon, excluding the WWA, rise to 5,650 (about 20%) and 10,600 (about 37%) respectively.
61. The Councils were criticised by some representors for failing to carry out an adequate reassessment of the housing distribution strategy before arriving at these revised allocations. But I do not endorse those criticisms, for two principal reasons. First, there has been no significant change in the overall balance of housing allocations to the three Sub-Areas: the WWA's share has only increased by around three percentage points, from 40% to 43%, while the other two Sub-Area shares have reduced by about one percentage point each. Thus the pattern of distribution remains much the same as the pattern that emerged as the Plan developed, and has been supported through a succession of SA reports dating back to 2007.
62. Secondly, the increased allocations in policy SWDP 3 were themselves the subject of a SA Addendum report in September 2014 [EX/613]<sup>18</sup>. This found that they would support and enhance established urban centres and smaller market towns through the proportionate distribution of the proposed additional development. There would be additional pressures on infrastructure and the environment, but provided the SWDP's development management policies are implemented positively, negative effects should be mitigated.
63. A review carried out for the Councils in 2010 [CD 134] concluded that the existing Green Belt fulfils the purposes of national policy and recommended no significant modifications to its boundaries. In general terms, given that sufficient land is available outside the Green Belt to meet development needs in a sustainable manner, I see no basis on which to conclude that exceptional

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<sup>18</sup> The Sub-Area allocations assessed in the SA Addendum report were very slightly different from those in MM15/03A, but this makes no significant difference to the assessment.

circumstances exist to justify allocating development land within the Green Belt.

64. In response to discussion at one of the hearing sessions, I visited and viewed an area of land at Hill End, which lies just inside the Green Belt boundary at the north-eastern edge of Droitwich. The land is largely undeveloped and is entirely rural in character, with only a few scattered buildings. A railway line, a main road and well-defined property boundaries provide strong demarcation between this Green Belt land and the relatively high-density development on the other side of the town's development boundary. Whatever may have been the circumstances that justified removal of land to the south from the Green Belt in the past, there are no exceptional circumstances that would justify further alterations to the Green Belt boundary in this area.
65. Protection of the highest quality agricultural land is a specific SWDP objective, and was subject to SA on that basis. Some representors felt that it should have been given more weight when decisions were made on the distribution of development. But it is extremely unlikely that a distribution strategy based on avoiding any building on higher-quality agricultural land would achieve a pattern of development as sustainable as that promoted by policy SWDP 3. Moreover, the amount of agricultural land that will be developed as a result of the Plan is a very small proportion of all the land in south Worcestershire.
66. To sum up, there is no substantial evidence which shows that the chosen distribution pattern for the Plan area is inconsistent with the principles of sustainable development. It is supported by SA and accords with the NPPF's core planning principles of promoting the vitality of the main urban areas, and focussing significant development in locations which are or can be made sustainable. No other distribution strategy has been shown to be capable of delivering the substantial growth in housing provision that is needed.

#### *Timing of development*

67. Table 4b(ii) of policy SWDP 3 (submitted as Table 4e) is modified by **MM15/03A** so as to break the Sub-Area housing requirement figures down into three time periods: 2006-2015, 2015-2018 and 2018-2030. Annual requirements are set for all three time periods in Worcester city and in Malvern Hills and Wychavon, excluding the WWA urban extension areas.
68. For the WWA urban extensions in Wychavon the annual requirement began in 2014, and for the bigger WWA urban extensions in Malvern Hills the requirement begins in 2018, reflecting the anticipated timing of development at each. For 2015-18 there are substantially increased requirement rates for the areas outside the WWA urban extensions in order to compensate for the expected later delivery at the latter. This is all made clear by **MM15/03A & 03B**.
69. These changes mean that there is a significant step-up in the annual housing requirements for the SWDP area as a whole, from 960 dwellings each year [dpa] in 2006-14, to 1,314 dpa in 2015-30. But this does not mean that there will be any undue delay in bringing housing forward through the Plan to meet the average need for 1,183 dpa over the Plan period as a whole<sup>19</sup>. On the

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<sup>19</sup> 28,400 (the Plan period requirement) / 24 (years in the Plan period) = 1,183.33.

contrary, the detailed trajectories prepared by the Councils<sup>20</sup> demonstrate that the accumulated shortfall since 2006 against that annual average figure will be eliminated by 2017. This represents a substantial boost to housing delivery. **MM15/Ann E** amends the trajectory graphs in Annex E to reflect the up-to-date position.

70. Table 4d in SWDP 3 sets out how the employment land, housing and retail floorspace requirements will be met in full through completions, existing commitments and site allocations in the Plan. It is substantially amended by **MM15/03A** to reflect the requirement figures recommended in my ICs and other more up-to-date information. **MM15/03A** also deletes the allowances made in the housing provision figures for bringing empty homes back into use, and for dwellings released by older people moving into extra-care housing, and amends the windfall and non-delivery allowances, all in accordance with my ICs. These changes are necessary to ensure that the policy is justified and effective.
71. The Councils' trajectories show that for the period 2015 to 2020 there are about 5.9 years' worth of deliverable housing land in the Plan area, measured against a five-year target based on the annual average requirement of 1,183 dpa. The target allows for making up the shortfall since 2006 within the first five years, plus a 5% "buffer", all in accordance with national guidance. No new evidence has come forward since my ICs were published in October 2013 to invalidate my conclusion that a 5% "buffer" is appropriate.
72. The trajectories, which have been updated to take account of the MMs, show that the deliverable housing land supply increases to around 6.5 years' worth for the 2016-21 period, measured on the same basis, and that it will be maintained at well above five years' worth in each succeeding period. Issues concerning the deliverability of particular site allocations are considered in detail in later sections of this report. In summary, I find that, as modified by the MMs, the allocations are sound and that development can reasonably be expected to come forward as indicated in the trajectories. Moreover, there is sufficient slack in the forecast five-year supply figures to allow for some slippage in individual cases.
73. As submitted, policy SWDP 3 referred to "phasing" of development in sections A, B and E. Those references were intended simply to reflect when development is expected to come forward, and the need for appropriate infrastructure to be in place when it does. But they might have been taken to imply that development would unjustifiably be held back in order to meet a rigid and unnecessary phasing timetable. To ensure that there is no misunderstanding on this point, the references to phasing are deleted by **MM15/03A & 03B**. Infrastructure requirements and timing are adequately covered by SWDP 4, SWDP 7, SWDP 62 and the individual site allocation policies.
74. Overall, amended Table 3d shows that completions, commitments and site allocations, plus a modest allowance for housing windfalls, will provide more than the modified policy requirements for employment land, housing and retail floorspace over the Plan period. The figures take into account my

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<sup>20</sup> EX/914.



recommendations to delete a site allocation for 35 dwellings at Malvern, and not to proceed with the proposed MM amending the indicative capacity figure for the Abbey Road site at Evesham<sup>21</sup>. For each of the requirements there will be an adequate "cushion" to provide flexibility and a safeguard against under-provision on any individual sites. In the case of the housing land supply, further comfort is provided by the additional windfall development that, on past evidence, is likely to come forward.

#### *Monitoring of the five-year housing land supply*

75. SWDP 3 C, as modified, sets out clearly which requirement figures are to be used as the basis for monitoring the five-year supply. **MM15/03B** adds paragraph 39 to the reasoned justification to SWDP 3 to show how the monitoring itself will be carried out. It will be done separately by each of the three south Worcestershire Councils for the Sub-Areas, or parts thereof, that fall within their respective administrative areas. Those results will then be aggregated to provide joint outputs for the WWA and for south Worcestershire as a whole. That is a sound procedure, which will also enable separate monitoring of the five-year supply in each of the three LPA areas.

#### *Managing uncertainty*

76. Policies SWDP 3 G (formerly Part I) and SWDP 62 B, with their reasoned justification, and SWDP 63 together explain the annual monitoring process that will measure the delivery of the Plan's development requirements. SWDP 63 is modified by **MM15/63B** to improve clarity and eliminate duplication. Further modifications are introduced by **MM15/03A & 03B** and **MM15/62A & 62B**, and adjusted in the light of consultation, in order to identify a series of measures that will be taken in the event that development does not come forward as expected.
77. The measures range from short-term measures such as discussions with developers to identify and remove obstacles to delivery, to more substantial interventions including bringing forward additional sites, or a partial or full review of the SWDP should there be a significant failure in supply. I see no need for the Plan to identify "reserve" housing sites, to be brought forward in the event of a shortfall in delivery on the allocated sites. South Worcestershire has a strong housing market but in the unlikely event of the Worcester urban extensions, for example, failing to deliver as planned, the measures now set out in the Plan are adequate and appropriate.

#### *"Separate and non-transferable"*

78. Policy SWDP 3 C (formerly D) states that the Sub-Area development allocations are *separate and non-transferable* between Sub-Areas. To some extent this is self-evident because they reflect the pattern of existing commitments and site allocations in the Plan. That distribution of development between Sub-Areas is a rational one, reflecting the development hierarchy and supported by SA, and it has been shown to be deliverable. In these circumstances, the Councils' decision to embed it in policy SWDP 3 is consistent with a plan-led planning system, as promoted by the NPPF (paragraph 17).

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<sup>21</sup> See Issue 14 below.

79. NPPF paragraph 49 states that *[r]elevant policies for the supply of housing should not be considered up-to-date if the LPA cannot demonstrate a five-year supply of deliverable housing sites*. NPPF paragraph 14 sets out specific tests for development proposals in situations where development plan policies are out-of-date. Together, these parts of the NPPF allow permission to be granted for additional sustainable housing sites if a five-year supply cannot be demonstrated.
80. Some representors sought the deletion of the *separate and non-transferable* provisions of policy SWDP 3 on the grounds that they would frustrate this mechanism. Their argument is that the boundaries of the WWA are drawn so tightly that it would be very difficult to bring forward additional housing sites there, if the five-year supply in the WWA were to fail. Deleting the *separate and non-transferable* provisions would allow sites outside the WWA to be brought forward as well, in order to meet the shortfall.
81. However, I find in this report that the SWDP's site allocations will maintain a five-year housing land supply through the Plan period, and that appropriate additional measures are in place to deal with any unexpected problems with delivery. Thus the SWDP is sound in these respects. It is not part of my remit to speculate on what might happen if currently-unforeseen circumstances were to derail both the delivery of the Plan's site allocations and its own measures to deal with problems in delivery.
82. Moreover, a future decision-maker would need to determine whether policy SWDP 3, including its *separate and non-transferable* provisions, is to be considered a relevant policy for the supply of housing (and therefore up-to-date or not, according to NPPF paragraph 49), if the Councils are ever in a position where they cannot demonstrate a five-year housing land supply. That is not a matter for me to determine in the abstract.

### *Conclusion on Issue 3*

83. The other changes made by **MM15/03A & 03B** are necessary to ensure that the policy is clear and that the reasoned justification properly reflects and explains the amended policy. Subject to all the modifications that I have identified as necessary for soundness, the development requirements, and the provisions for meeting them, set out in policy SWDP 3 are justified and effective.

### ***Issue 4 – Do policies SWDP 4, SWDP 7 and SWDP 62 A provide a sound basis to secure the infrastructure and other transport measures that are necessary to support the level of development proposed in the Plan?***

#### *Overall infrastructure requirements*

84. Policy SWDP 7 sets out the Plan's general approach to securing infrastructure provision. It applies to all forms of physical, social and green infrastructure<sup>22</sup>. **MM15/07A & 07B** amend the policy in order to remove an unjustified requirement for contributions towards "community benefits", and to delete

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<sup>22</sup> See CD 259, para 3.7.

explanatory material or relocate it to the reasoned justification. Most importantly, however, the modifications clarify the relationship between the policy, Annex I to the Plan, and the *South Worcestershire Infrastructure Delivery Plan* [IDP, CD 259].

85. As submitted, Part A of SWDP 7 referred to *the necessary and proportionate crucial infrastructure that is required in order to deliver the ... Plan*. Part B then said that *[t]he current assessment of crucial infrastructure requirements is set out in Annex I, and is explained in more detail in the [IDP]*. Together, these could have been taken to mean that Annex I and the IDP should be seen as setting out a definitive list of infrastructure requirements for each site allocation in the Plan.
86. In fact, the position is as follows. The IDP is a "living document", regularly updated, which sets out the Councils' assessment of infrastructure requirements across south Worcestershire. Appendix Y to the IDP, which is also subject to regular updating, lists the elements of infrastructure that are seen as crucial (that is, essential or necessary) to the delivery of the Plan. In turn, Annex I to the SWDP, as submitted, reproduces Annex Y as it stood when the proposed submission version of the Plan was published in January 2013.
87. In order for the IDP and Annex I to have the status apparently accorded to them by Parts A and B of SWDP 7, as submitted, it would have been necessary for me to examine whether each item of infrastructure they contain was genuinely made necessary by the corresponding development proposed in the Plan. That would have been impractical and inefficient as it would have consumed a huge amount of examination time, and given the "living document" nature of the IDP, subsequent revisions to it might soon have rendered any conclusions I reached out-of-date. For most sites, therefore, assessment of infrastructure needs would be carried out far more effectively at the development management stage, having regard to the relevant infrastructure requirements as assessed in the latest version of the IDP at the time.
88. For these reasons, the contents of the IDP and of Annex I to the Plan were not subject to examination of their soundness in my examination of the SWDP. However, it is appropriate for the Plan to define what provisions are needed to support those sites with particularly substantial infrastructure requirements – mainly the urban extensions – in order to provide certainty for developers and others who are affected. Where specific infrastructure requirements are set out in the site allocation policies, therefore, they have been subject to full examination. Any main modifications that are needed to make those site allocation policies sound are considered later in this report.
89. **MM15/07A & 07B** accordingly delete Part B of SWDP 7 and add new text to its reasoned justification to clarify the status of the IDP and Annex I, and their relationship to the Plan. The Councils will update Annex I as necessary so that it reflects the latest available version of the IDP.
90. As modified by **MM15/07A**, and in the interests of certainty, SWDP 7 C advises that the infrastructure needed to support new development must be operational no later than the phase of development for which it is required.

This means that if there is only one phase of development, the necessary infrastructure must come into operation at the same time as, or sooner than, the development. The case for any exceptions to this generally reasonable requirement can be considered at the development management stage.

91. Policy SWDP 7 B makes it clear that development will be required to provide, or contribute towards the provision of, the infrastructure needed to support it. The phrase "contribute towards" reflects the fact that, in determining the amount of any necessary contributions at the development management stage, regard will need to be had to development viability considerations<sup>23</sup>. SWDP 7 B is complemented by SWDP 62 A which, as modified by **MM15/62A**, explains that planning obligations will continue to be sought to mitigate the negative impacts of individual developments. The reasoned justification to both policies correctly acknowledges that planning obligations may be sought alongside Community Infrastructure Levy payments, provided that the role of each is clear and distinct.
92. These aspects of both policies are consistent with the *Community Infrastructure Levy [CIL] Regulations 2010* (as amended) and relevant guidance in the PPG. There is no need to set out the planning obligation tests from CIL Regulation 122 in these policies, or in policy SWDP 4, as they have statutory force in any event.

#### *Transport infrastructure and other measures*

93. While transport infrastructure requirements are covered in general terms by policy SWDP 7, they are given specific attention in policy SWDP 4, together with other transport measures seen as necessary to manage travel demand. The latter are set out in SWDP 4 A, B & C, and subject to the necessary clarification provided by **MM05/04A**, they are consistent with national policy promoting sustainable transport (NPPF section 4).
94. In SWDP 4 D and L (formerly M), **MM15/04A** makes necessary amendments to ensure that the policy's requirements for infrastructure contributions do not duplicate or conflict with those of policy SWDP 7. Part H of the policy, which is also clarified by **MM15/04A**, seeks to ensure that developments do not physically compromise the implementation of necessary transport schemes. It is not an additional requirement for infrastructure contributions.
95. Parts G & I of the policy together deal with key elements of transport infrastructure that are important to the implementation of the Plan, as **MM15/04A & 04B** make clear. Part I specifies those elements of the Worcester Transport Strategy, beyond its Phase 1, that will be required to support development in the WWA. The reference to "phased" implementation of these measures, inserted by **MM15/04A**, is necessary for consistency with SWDP 7 C and with the actual phasing and funding arrangements<sup>24</sup>. As submitted, however, the reference in SWDP 4 I to "partial dualling" of the A4440 is ambiguous and thus ineffective: this is resolved by **MM15/04A** making clear exactly which parts of the road need to be dualled in order to support development in the WWA.

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<sup>23</sup> See NPPF, paragraphs 173-174.

<sup>24</sup> See EX/810.

96. There were many representations and much doubt was expressed about the ability of the road network to accommodate the extra traffic that will be generated by the developments proposed in the Plan. However, the transport impacts of the proposed developments (including the additional housing sites brought forward in response to my FICs) have been fully assessed using appropriate modelling techniques, and the infrastructure requirements of policy SWDP 4 are based directly on that assessment work.
97. On the A4440 Worcester Southern Link Road, the modelling work shows that traffic flow conditions will improve significantly, compared with the present situation, as a result of the proposed highway improvements<sup>25</sup>. Transport improvement packages are also proposed for each of the main and other towns. Neither the County Council as local highway authority nor Highways England (formerly the Highways Agency) has any outstanding concerns about the soundness of the Plan.
98. The evidence before me does not support the view of some representors that a Worcester North-West Link Road is also needed to provide for the traffic generated by the development in the Plan. It would not be appropriate to safeguard land for such a road in the absence of firm evidence that it is necessary.
99. With the necessary clarifications provided by **MM15/04A**, SWDP 4 G, J & K make appropriate provision for safeguarding land for existing and future transport infrastructure, and for Transport Assessments [TA] to support development proposals. The definition of major schemes for TA purposes is appropriate to the scale of development expected to come forward through the Plan, and the requirement for TAs to comply with defined local guidance is necessary to facilitate consistency in decision-making. However, **MM15/04A & 04B** delete submitted Part L of the policy, as it is not justified in seeking to devolve the definition of local parking standards to a future Supplementary Planning Document. Any such standards ought to be subject to full examination as part of the development plan.

#### *Conclusion on Issue 4*

100. Subject to the modifications identified above, which are necessary for soundness, policies SWDP 4, SWDP 7 and SWDP 62 A provide a sound basis to secure the infrastructure and other transport measures that are necessary to support the level of development proposed in the Plan.

#### ***Issue 5 – Are the green infrastructure requirements of policy SWDP 5 justified, effective and consistent with national policy?***

101. Policy SWDP 5 A & B seek green infrastructure provision on all greenfield housing sites: the proportion to be provided varies according to the size of the site and excludes private garden space. The benefits of green infrastructure provision are well-documented in national policy and guidance documents<sup>26</sup>. While the specific policy requirements attracted some opposition

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<sup>25</sup> See CD 260 & EX/833.

<sup>26</sup> See NPPF para 114, CD 268 & CD 269.

(especially the statement that private gardens do not count as part of green infrastructure provision), the Councils demonstrated with evidence that both their feasibility and their financial viability in the south Worcestershire context had been robustly tested<sup>27</sup>. The only significant area of uncertainty in this respect concerns brownfield sites in rural areas. **MM15/05A** accordingly excludes them from the requirements. Urban brownfield sites are already excluded.

102. In the light of the evidence, I see no cause for concern that the policy requirements will lead to under-provision of housing compared with the indicative figures set out in the site allocation policies. For the avoidance of doubt, however, **MM15/05A** also makes it clear that the requirements may be reduced where they are shown to compromise viability. The other changes made by **MM15/05A & 05B** are required to ensure that the policy's requirements are unambiguous and that their relationship to the Worcestershire Green Infrastructure Strategy, the identified Environmental Character Areas and other SWDP policies is clear. Subject to these necessary modifications, the green infrastructure requirements of policy SWDP 5 are justified, effective and consistent with national policy.

### ***Policy SWDP 6***

103. Strategic policy SWDP 6 is closely related to policy SWDP 24, as both deal with policy towards the historic environment. They are considered together under Issue 9 below.

## **GENERIC POLICIES**

### ***Issue 6 – Do the SWDP's policies provide appropriate guidance for employment, retail and leisure development proposals, and promote the vitality and viability of centres?***

#### *Employment development*

104. Policies SWDP 8 & 12 deal respectively with employment development in general and in rural areas in particular. For effectiveness, modifications are necessary to SWDP 8 A to make explicit which uses are permitted on allocated employment sites, and to relocate potentially confusing explanatory text to the reasoned justification. Potentially restrictive references to certain *sui generis* uses that may be permitted on employment sites are replaced by broader and more appropriate criteria. These changes are made by **MM15/08A & 08B**.

105. **MM15/08A** also makes it clear that any retail or leisure uses on employment sites that may be permitted under the terms of the policy must not have a significantly adverse impact on the vitality and viability of any centre. The latter change is required for consistency with national policy and with other policies of the Plan. There is sufficient discretion within the development

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<sup>27</sup> See CD 616, section 8.

management process to permit other ancillary uses that are consistent with the aims of the policy.

106. Modifications are necessary to SWDP 8 B & C, which apply specifically to the Worcester Technology Park and the Malvern Technology Centre, to clarify their terminology and to avoid duplicating the provisions of policies SWDP 45/6 & 53. The addition of cross-references to the latter policies provides the necessary clarity. In SWDP 8 D, which identifies the preferred locations for major office developments, amendments are needed to add the important qualification that these provisions do not apply to other sites allocated in the Plan for office use, and to ensure that its terms are consistent with those of policy SWDP 2. **MM15/08A** makes these changes in the interests of effectiveness.
107. In the context of South Worcestershire, where very big office schemes are relatively rare, 1,000sqm net floorspace is a proportionate threshold for "major" office developments falling within the scope of SWDP 8 D. The policy is consistent with the Plan's strategy and with the principles of sustainable development in encouraging such developments to locate in the main urban centres, while permitting smaller office schemes elsewhere.
108. Also in the interests of effectiveness, **MM15/08A** modifies submitted SWDP 8 E-K by reducing these seven sections of the policy to three, through deletion of unnecessary duplication and explanatory text. When read alongside other relevant policies in the Plan, the changes result in clear statements of the policy approach to proposals for employment development on non-allocated sites; for changes of use of employment premises of more than 1,000sqm net floorspace; and for live-work accommodation. The resulting, more limited criteria for live-work schemes strike the right balance between encouraging such development and weeding out potential bogus proposals. They do not affect residents' ability to use part of their existing home for work purposes.
109. The Main Modifications to policy SWDP 12 are set out in **MM15/12A & 12B**. They define more clearly the rural areas to which the policy applies (including the open countryside), clarify the approach to proposals for change of use, and remove sections of the policy which duplicate or conflict with other parts of the Plan, or conflict with national planning policy. They are necessary to ensure that the policy is effective and consistent with national policy in supporting the rural economy. It is sufficiently clear that the policy supports the intensification of existing rural employment sites in principle without the need for a specific statement of that fact.
110. Both SWDP 8 H and SWDP 12 F, as submitted, include a two-year marketing period as one of the criteria for changes of use of existing employment premises. In the light of national policy guidance that discourages the long-term protection of sites that have no reasonable prospect of further employment use, that period is too long. **MM15/08A & 12A** therefore reduce it to 12 months, with **MM15/Ann F** making the same change to the detailed marketing requirements in Annex F.
111. The parallel requirement for a viability assessment will provide an adequate safeguard against the marketing exercise being distorted by atypical, short-term economic conditions. For the same reasons, it is legitimate for the

policy, as modified by **MM15/08A**, to require an assessment of the likelihood of redevelopment for employment becoming viable within five years. Both these requirements are consistent with the NPPF's "no reasonable prospect" test and its support for a strong rural economy. However, there is no national or local policy justification for the requirement in SWDP 8 H that alternative proposals should deliver "a clear community benefit". Nor is it evident how compliance with the requirement could be demonstrated. It is therefore deleted.

112. As submitted, policy SWDP 11 would have imposed stringent requirements on proposed employment developments in the Vale of Evesham that generate significant HGV traffic. Such developments would have been required to demonstrate, among other things, that their local economic benefits outweigh the impact of the increase in HGV traffic. As well as being very difficult to meet in practical terms, such a requirement would be inconsistent with the Plan's generally positive attitude towards employment development. There are other SWDP policies that require account to be taken of the effects of transport and living conditions when determining development proposals.

113. Consequently, **MM15/11A** amends the policy so that it requires HGV-generating developments in the defined Vale of Evesham HGV Control Zone to submit a TA showing the proposed supply and distribution routes. That is a proportionate requirement which will enable adequate consideration to be given in the development management process to the effects of generated HGV traffic. The Councils will need to amend the reasoned justification to accord with the modified policy.

#### *Retail and leisure development and centres*

114. The Plan's policies for promoting and sustaining centres and local shops are set out in SWDP 9 & 10. **MM15/09A** removes unnecessary duplication from SWDP 9, and clarifies the locations to which its provisions apply. It also removes the unjustified requirement for need to be demonstrated for retail and leisure developments in centres, and provides clearer criteria for developments that support the evening and night-time economy. The changes are necessary for effectiveness and consistency with national policy.

115. Modifications are made by **MM15/10A** to SWDP 10, to ensure that the hierarchy of centres is set out in full in Table X<sup>28</sup>, and to clarify the policy criteria that apply to development proposals inside and outside the defined centres, as well as to village, neighbourhood and farm shops, garden centres and petrol stations. The resulting policy requirements are focussed and effective, and consistent with national policy that seeks to promote the vitality of town centres and the rural economy.

116. The locally-set retail impact assessment threshold of 1,000sqm net is a proportionate one, reflecting the relatively small scale, in regional and national terms, of the centres in South Worcestershire. The limitations on changes of use in primary and secondary shopping frontages strike an appropriate balance between retaining an adequate proportion of Class A1 shops, and permitting other uses that are appropriate in town centres.

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<sup>28</sup> Including new centres proposed as part of urban extensions at Worcester, Droitwich Spa and Malvern.



### *Conclusion on Issue 6*

117. With the modifications that I have identified as necessary for soundness, the SWDP's policies provide appropriate guidance for employment, retail and leisure development proposals, and promote the vitality and viability of centres.

### ***Issue 7 –Do the SWDP's policies provide appropriate guidance on the approach to housing development proposals, and are its requirements for the provision of affordable housing justified, effective and consistent with national policy?***

#### *Policies to guide housing development*

118. As submitted, policy SWDP 13 is over-complex, containing provisions that duplicate other policies in the Plan as well as unnecessary explanatory text. **MM15/13A & 13B** strip out the superfluous wording, so that the policy provides effective guidance on the approach that will be taken towards residential density and towards development proposals affecting best and most versatile [BMV] agricultural land.

119. As modified, the densities set out in the policy generally reflect the pattern of current provision in different parts of the Plan area<sup>29</sup>. Of course some sites achieve significantly higher or lower densities due to local factors. It is therefore important that the policy refers to "broad indications" of appropriate density, rather than setting prescriptive requirements. Its provisions are to be considered alongside those of other Plan policies, especially those dealing with the various aspects of design. Provided that it is properly applied in this way, the policy strikes an appropriate balance between encouraging the efficient use of land and allowing for necessary flexibility in design. There is no need for densities to be specified for the urban extensions, as their respective allocation policies already set out the approximate number of dwellings to be provided at each.

120. NPPF paragraph 112 advises that where significant development of agricultural land is shown to be necessary, preference should be given to using land of poorer quality. As submitted, policy SWDP 13 L went beyond this guidance in effectively establishing a presumption against development on BMV land of any size unless there is no reasonable alternative. **MM15/13A** therefore amends what is now Part H of the policy to set a significance threshold of 2ha for windfall development proposals to which its provisions will apply. That is a proportionate approach, having regard to the mainly rural nature of the area and the relatively low proportion of Grade 4 and 5 agricultural land within it. There is no evidence to show that the requirement will prejudice the achievement of the Plan's development requirements.

121. The modifications also amend the target for the proportion of housing development on brownfield land from 50% to 40%, in order to reflect the balance of site allocations, and to make it clear that this is a monitoring target that will not affect the consideration of all applications on their merits.

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<sup>29</sup> See H/1a: *South Worcestershire Housing Densities by Sub-Area*.

References to "prioritising" development on brownfield land are replaced by "encouragement" for such development, for consistency with the emphasis of national planning policy.

122. **MM15/14A & 14B** are needed to ensure that policy SWDP 14 provides clear guidance on the Plan's requirements for residential mix within market housing developments, on specialist housing provision, and on proposals for sub-division and conversion of properties. As submitted, the policy and its reasoned justification attracted criticism that it was too prescriptive, especially in respect of dwelling sizes. While there was some force to that criticism, it must also be borne in mind that NPPF paragraph 159 requires Local Plans to take account of the housing needs of different groups in the community.
123. The modified policy now sets out a balanced and flexible approach, in which up-to-date assessment and survey data and market information will all – to the extent that they are available – influence the decision on housing mix at the planning application stage. References in the reasoned justification to some of the findings of the 2012 *Strategic Housing Market Assessment* [SHMA] are to be read in that context. Importantly, the sources of evidence include developers' assessments alongside the SHMA and local surveys and plans.
124. In view of the substantial proportion of smaller housing developments coming forward in the Plan area, the threshold of five dwellings, at which policy SWDP 14's requirements will apply, is an appropriate one. Having regard to the *Local Plan [LP] Viability Update* [EX/612] and *Community Infrastructure Levy [CIL] Viability Update* [EX/806] (both 2014), there is no substantial evidence to show that the policy's requirements would pose a threat to the viability of residential schemes. In their development scenarios, those viability studies assume a mix of dwelling types and sizes for both market and affordable housing.
125. In view of the predicted large increase, during the Plan period, in the proportion of older people among South Worcestershire's population, it is appropriate for policy SWDP 20 to encourage specific provision for this age group. Modifications to the policy (**MM15/20A & 20B**) are necessary to make it clear that the housing provision it seeks is to be considered as part of the mix required by policies SWDP 14 & 15; and to clarify the criteria that will be applied to proposals for Class C2 accommodation, removing the unjustified requirement for "undersupply" to be demonstrated. Policy SWDP 14 encompasses the needs of other groups, including students and people with disabilities, and given its wide scope, there is no need to broaden policy SWDP 20 further. Any very specific needs can be taken into account in the development management process.
126. Submitted policy SWDP 16, dealing with rural exception sites, includes potentially confusing references to "exceptional cases". These are deleted, and other aspects of the policy are clarified, by **MM15/16A & 16B**. There is no quantified evidence to support the view that the policy will give an undue incentive to development on such sites, when account is also taken of the reasonable criteria that must be met. **MM15/18A & 18B** provide necessary clarification to the requirements of policy SWDP 18 regarding proposals for replacement dwellings in the open countryside.

127. There is a considerable overlap between policy SWDP 19, concerning proposals for rural workers' dwellings, and Annex G which sets out the tests that will be applied to such proposals. To eliminate the potential for confusion that this might cause, **MM15/19A** deletes the elements of the policy that are covered by Annex G, replacing them with appropriate cross-references. It also moves those provisions in the reasoned justification which have a bearing on the way that development proposals will be assessed, into their proper place in the policy itself. These changes, and the complementary changes to Annex G made by **MM15/Ann G**, are necessary to make the policy effective.
128. With these modifications, SWDP 19 is consistent with the national policy guidance on rural workers' dwellings in NPPF paragraph 55. It is appropriate for a test of the rural enterprise's economic viability to be applied, in order to ensure that the functional need for the dwelling is likely to endure beyond the short term. For similar reasons, the policy is justified in making provision for accommodation associated with a new rural enterprise to be provided in a temporary dwelling, in order to allow the viability of the business to be demonstrated.
129. The final shape of the latest statutory proposals for self-build and custom housing contained in the *Housing and Planning Bill*<sup>30</sup> is not yet known. Nor is there any substantial evidence to show that the SWDP's policies would place barriers in the way of anyone wishing to build or commission their own home. I therefore see no need to recommend a specific policy covering these types of development. However, the Councils should be alert to any implications of the emerging legislation in this respect.

#### *Affordable housing*

130. Policy SWDP 15 sets out the Plan's requirements for affordable housing provision as a share of market housing schemes. It sets out proportions of affordable housing on a "sliding scale", differentiated by size and type of site (greenfield or brownfield) in order to reflect the viability evidence. Adjustments to these proportions are made by **MM15/15A & 15B** to take account of the most recent evidence for the Plan area in the *LP Viability Update* and *CIL Viability Update*.
131. The policy makes it clear that, while regard will be had to the "sliding scale", the number of affordable dwellings to be provided in any individual scheme is subject to negotiation, along with their type, tenure and distribution. Evidence of local need and scheme viability, as well as site-specific factors, will be taken into account in these negotiations. The stated preference for social rented housing, which was tested in the *LP Viability Update*, reflects evidence of need<sup>31</sup> and is itself subject to negotiation. The policy does not discriminate between providers, as long as what they provide meets the definition of affordable housing in the NPPF Glossary. The process is therefore consistent with current national policy guidance, and the evidence shows that it would not threaten market housing delivery across the Plan area.
132. The *LP Viability Update* found that in most cases extra-care housing could not sustain the proportions of affordable housing sought by policy SWDP 15. But

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<sup>30</sup> Introduced into the House of Commons on 13 October 2015.

<sup>31</sup> See CD 090, p196, Fig. 7.9 & EX/616, para. 13.37.

since most extra-care housing is likely to fall outside Class C3, it will only rarely be covered by the requirements of the policy. The number of Class C3 sheltered housing schemes for older people likely to come forward is not so great as to warrant separate provision for them in the policy, when account is also taken of the relatively small differences in their viability compared with that of mainstream housing. Viability issues affecting individual developments, and the justification for off-site contributions, will in any case be considered in the negotiation process.

133. The PPG is clear in stating that viability assessment in decision-taking should be based on current costs and values. It envisages that changes in costs and values will only be taken into account in phased development schemes<sup>32</sup>. In the light of this guidance, policy SWDP 15 is unjustified in suggesting that Contingent Deferred Obligations will be a common feature of affordable housing negotiations. The policy reference to them is therefore removed by **MM15/15A**. However, it is not inappropriate for the reasoned justification to say that such obligations may be employed in certain circumstances.
134. The other changes made by **MM15/15A & 15B** are necessary to clarify the policy's requirements, to ensure that it is consistent with the NPPF in respect of arrangements for recycling subsidy, and to make clear the status and purpose of the Councils' intended *Affordable Housing SPD*.

#### *Conclusion on Issue 7*

135. Subject to the modifications which are necessary for soundness, the SWDP's policies provide appropriate guidance on the approach to housing development proposals, and its requirements for the provision of affordable housing are justified, effective and consistent with national policy.

### ***Issue 8 – Are the Plan's provisions to meet the accommodation needs of Gypsies and Travellers justified, effective and consistent with national policy?***

#### *Assessment of accommodation needs*

136. The national *Planning policy for traveller sites* [PPTS] asks LPAs to set pitch targets for Gypsies and Travellers and plot targets for travelling showpeople, to address their likely permanent and transit site accommodation needs.
137. When the SWDP was originally submitted, the latest available evidence on the accommodation needs of Gypsies and Travellers was in the 2008 *Gypsy and Traveller Accommodation Assessment* [GTAA] for the South Housing Market Area of the West Midlands Region [CD 100] and a 2010 *Interim Policy Statement* produced by the West Midlands Regional Assembly [CD 101]. The need and provision figures in submitted policy SWDP 17 were based on that evidence.
138. However, more recent evidence became available in 2014 with the publication of the *Worcestershire GTAA* [CD 258a], commissioned by the seven local

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<sup>32</sup> ID 10-017-20140306.

authorities in the county. Employing a methodology that differs in some significant respects from the 2008 GTAA, the 2014 document arrives at accommodation need figures for the five years 2014/15 to 2018/19 that are substantially lower than those set out in submitted policy SWDP 17. Taking account of these new figures, the Councils published and consulted on PMs to the policy in October and November 2014.

139. I read the responses to that consultation, and held a hearing session on the issue in April 2015. I then sought and obtained further information from the Councils, in correspondence that is published as EX/903a-j inclusive. After considering all the relevant evidence, in July 2015 I published interim findings on the need for and supply of permanent pitches for Gypsies and Travellers between 2014/15 and 2018/19 [EX/903k].
140. To avoid unnecessary repetition, my interim findings can be summarised as follows<sup>33</sup>. Most aspects of the methodology employed in the 2014 GTAA are sound. However, two adjustments need to be made to the allowance which the assessment makes for pitch turnover. The first adjustment is necessary to account for the fact that propensity to move to another pitch within the area must logically add to need as well as to supply. The second is needed to reduce the unusually high, trend-based turnover rate in Malvern Hills district to a level that is more in line with the rest of the county and thus more likely to be sustained over the next five years.
141. These adjustments result in a modest increase in the five-year accommodation need figures compared with those in the 2014 GTAA. **MM15/17A** sets out these figures, based on the 2014 GTAA but taking account of the adjustments recommended in my interim findings, in its Table 17a. They supersede both the five-year need figures in the policy as originally submitted, and those contained in the 2014 Proposed Modifications. In accordance with PPTS, they cover permanent and transit pitches for Gypsies and Travellers and plots for Travelling Showpeople.
142. Table 17b sets out need figures for the rest of the plan period, drawn from the latest evidence in the 2014 GTAA. Future review of the GTAA may lead to alterations to these figures: any such alterations could be addressed by a partial review of the Plan and/or the *South Worcestershire Traveller and Travelling Showpeople Site Allocations DPD*, which is programmed for adoption in mid-2017. Substantial additional criticisms of the 2014 GTAA were made during consultation on the MMs, but having considered the Councils' response to them [EX/921a], I see no need to revise my interim findings. In the interests of improved communication I would, however, recommend that the Councils consider including one or more Gypsy and Traveller community representative(s) on the steering group for future reviews of the GTAA.

#### *Provision to meet accommodation needs*

143. PPTS advises that, in producing their Local Plan, LPAs should identify a supply of specific, deliverable sites sufficient to provide five years' worth of sites against their locally-set targets. They should also identify a supply of specific, deliverable sites, or broad locations for growth, for years 6-10 and, where

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<sup>33</sup> For the full details, please refer to EX/903k.

possible, for years 11-15. The position in South Worcestershire in this respect is summarised in the Councils' statement *Maintaining a Five Year Supply of Traveller Pitches in South Worcestershire* [EX/903I]. The five-year requirement for 2015/16-2019/20, as at August 2015, was for 28 permanent Gypsy and Traveller pitches.

144. 20 pitches are allocated by policies SWDP 45 at the Worcester South and Worcester West urban extensions (up to 10 pitches each). For consistency, **MM15/17A** refers to these allocations in policy SWDP 17 also. Their location on the edge of the main urban area, with good access to services and transport links, makes these sites particularly well-suited to meet the accommodation needs of Gypsies and Travellers from across South Worcestershire. As they are the largest of the allocated urban extensions, they offer the best opportunity for successful integration of Gypsy and Traveller accommodation.
145. The allocated sites are capable of meeting the bulk of the identified five-year need. The Councils' respective Local Development Schemes make it clear that sites to meet the remaining needs for the rest of the Plan period will be identified in the *Traveller and Travelling Showpeople Site Allocations DPD*. Given the number of Gypsy and Traveller sites currently coming forward as windfall developments (13 permanent pitches, 10 temporary residential pitches and 24 temporary transit pitches between April 2014 and July 2015), I see no reason to doubt that the necessary additional sites will be found for allocation. Similarly, it appears highly likely that the current five-year requirement will be met, notwithstanding the time lag between adoption of the SWDP and of the *Site Allocations DPD*.
146. The other alterations contained in **MM15/17A & 17B**, as amended in the light of consultation, are necessary to make the approach to and criteria for assessing planning applications in part C of the policy effective and consistent with both national policy and other policies of the Plan; to clarify the relationship between the SWDP and the *Site Allocations DPD*; and to explain the process by which the Councils will maintain a five-year supply of deliverable sites.

#### *Conclusion on Issue 8*

147. Subject to the modifications necessary for soundness, the Plan's provisions to meet the accommodation needs of Gypsies and Travellers are justified, effective and consistent with national policy.

#### ***Issue 9 – Are the SWDP's policies for environmental enhancement and protection, green space and the historic environment justified, effective and consistent with national planning policy?***

148. Policy SWDP 21 is a wide-ranging policy dealing with design quality. The changes introduced by **MM15/21A** are necessary for compliance with national policy on energy and water efficiency standards and to ensure that all the policy's requirements are proportionate and unambiguous. In the light of consultation, the changes were adjusted to eliminate duplication of other

planning requirements and to include an accurate reference to *Secured by Design*.

149. **MM15/22A & 22B** are needed to ensure that the protection given by policy SWDP 22 to designated wildlife and geological sites<sup>34</sup> properly reflects their relative importance, and that the policy provides for biodiversity and geodiversity enhancement where practicable, all in accordance with national policy. The Councils will add an item to the Glossary to clarify what is included under the term "Ancient Woodland". **MM15/23A** is necessary to ensure that policy SWDP 23 applies the appropriate policy tests to any development proposals which affect the natural beauty of the Cotswolds and Malvern Hills Areas of Outstanding Natural Beauty.
150. **MM15/25A** amends policy SWDP 25 in order to clarify the circumstances in which a Landscape and Visual Impact Appraisal will be required to support development proposals, and to make it clear that the "primary landscape characteristics" to which it refers are defined in published landscape character assessments. With these changes, the policy is justified in requiring development proposals to pay appropriate regard to the landscape character of the area in which they are located.
151. Policy SWDP 39 sets out the Plan's requirements for the provision of green space and outdoor community uses in new development, making it clear that this provision is part of, and not additional to, the green infrastructure required by policy SWDP 5<sup>35</sup>. As well as clarifying the wording of the policy, **MM15/39A** makes some changes to the table in it which contains numerical standards for different categories of provision. These changes are required to ensure that the definition of each category, and of the areas in which the standards apply, are clear; and most importantly, to amend the standards themselves to reflect the latest available evidence.
152. In the case of formal sports pitches, the modifications remove the numerical standards that were in the submission version of the policy. They are replaced by a case-by-case assessment of requirements using the most up-to-date evidence available at the time the proposal is considered. This approach brings the policy into line with the national guidance now promoted by Sport England<sup>36</sup>. However, it would be inappropriate for the policy to refer to one specific evidence document, as **MM15/39A** originally proposed, and so the reference is now removed. Changes to the reasoned justification (**MM15/39B**) explain the revised policy approach and list the evidence documents on which it is based.
153. Policy SWDP 38 sets out the limited circumstances in which development will be permitted, either on existing Green Space (which is similarly designated in the Councils' adopted development plans) or on new Green Space provided alongside new development. As submitted, the policy used the term "Local Green Network" for the open spaces and associated community facilities which

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<sup>34</sup> Including sites within the Abberley and Malvern Hills Geopark.

<sup>35</sup> See Issue 5.

<sup>36</sup> Sport England, *Playing Pitch Strategy Guidance – An Approach to Developing and Delivering a Playing Pitch Strategy* (2013)

it covers, but Green Space is a more appropriate and inclusive term<sup>37</sup>.

**MM15/38A** accordingly makes that change of terminology. The modification also adds necessary clarification and cross-referencing to other policies that require the provision of Green Infrastructure or Green Space, and removes superfluous and potentially confusing explanatory material.

154. As the reasoned justification to the policy makes clear, Green Space has value for visual amenity as well as recreation, and so the Councils are justified in continuing to designate privately-owned open space, such as Hayslan Fields in Malvern, as Green Space. However, it is confusing for the Policies Map to continue to designate sites allocated for development in the Plan as Green Space. The Green Space designation should therefore be removed from those sites, unless the allocation policy clearly identifies that a specific area of Green Space is to be provided within the allocation<sup>38</sup>. For all other allocated sites, where no specific area of Green Space is identified in the allocation policy, the Policies Map can be altered again to show any actual Green Space provision, once the layout of the development has been approved.
155. Policies SWDP 6 and SWDP 24 together set out the Plan's approach to development's relationship with the historic environment. As submitted, however, they gave only a partial, and thus potentially confusing, account of the detailed approach in NPPF section 10 to development proposals that affect the significance of heritage assets, including proposals for the re-use and adaptation of historic buildings, and enabling development.
156. In the interests of effectiveness, **MM15/24A** replaces that partial account with a direct reference in policy SWDP 24 to the NPPF's provisions. The same modification clarifies the policy's requirements for descriptive material to accompany planning applications. **MM15/06A** is also needed for effectiveness, to ensure that policy SWDP 6 accurately identifies the categories of heritage assets to which it applies and clearly explains its intended approach.
157. Subject to the identified modifications, which are necessary for soundness, the SWDP's policies for environmental enhancement and protection and for the historic environment are justified, effective and consistent with national policy.

***Issue 10 – Are the SWDP's policies for telecommunications, broadband and energy justified, effective and consistent with national policy?***

158. Policy SWDP 26 sets out requirements for broadband provision in new development that, as submitted, are unreasonably wide-ranging and detailed. **MM15/26A** replaces them with a straightforward and reasonable requirement for super-fast broadband, or an appropriate alternative, to be provided through early engagement between developers and infrastructure providers. This is sufficient for the policy, leaving the details of provision in any individual

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<sup>37</sup> The term Green Space, as used in the SWDP, is not to be confused with "Local Green Space". The latter term is given a specific meaning and status by NPPF paragraphs 76 & 77, but these do not apply to Green Space.

<sup>38</sup> See, for example, the discussion of sites SWDP 43e and 43l under Issue 14 below.



case – and any exceptions to the requirement – to be determined during the development management process.

159. The policy also contains criteria for considering telecommunications development. **MM15/26A** deletes those criteria which duplicate other policies of the Plan, or seek to impose an unenforceable requirement to remove obsolete or disused equipment.
160. As submitted, the first part of policy SWDP 27 sets out renewable or low-carbon energy requirements for all developments of one or more dwellings of more than 100sqm. Such developments should incorporate renewable or low-carbon energy generation sufficient to reduce CO2 emissions from residual energy use by at least 10%. In the urban extensions and other large-scale development, the reduction should be 20%.
161. Targetting the reduction on CO2 emissions introduces unnecessary complexity into these requirements. Moreover, in the case of residential development, the *Deregulation Act 2015* will remove the existing power in the *Planning and Energy Act 2008* that enables LPAs to require development to exceed the energy performance requirements of the Building Regulations. However, the power to require that a proportion of the energy used in development is derived from local renewable or low-carbon sources will remain<sup>39</sup>. Consequently, **MM15/27A** amends policy SWDP 27 so that the required reduction applies to predicted energy use rather than CO2 emissions.
162. Although the viability of the policy's requirements was tested in the *LP Viability Update*, the *Update's* modelling was based on a reduction of 10% only. There is therefore no evidence to demonstrate that the 20% reduction sought for larger developments could be viably achieved, and it is deleted by **MM15/27A**. The modification also adds a rider to the policy to exempt individual developments from the 10% requirement if it is shown to make them unviable. Both changes are needed to achieve compliance with national policy guidance on viability<sup>40</sup>. **MM15/27A** further amends SWDP 27 to delete unnecessary explanatory wording and an unjustified requirement for contributions to a carbon offset fund.
163. Part B of policy SWDP 27, as submitted, requires large mixed-use developments to examine the potential for a decentralised energy and heat network and to incorporate it, if it is found to be viable. However, there is no definition of what constitutes a "large" development for this purpose. Nor is it clear why the requirement applies only to mixed-use developments, despite the support given by NPPF paragraph 97 to this type of energy provision. **MM15/27A** therefore alters the policy so that it applies to all developments of 100 or more dwellings, or at least 10,000sqm.
164. With this alteration, and the related changes to ensure that the wording of SWDP 27 B is clear and consistent, the requirements of this part of the policy are reasonable and proportionate. The size thresholds will ensure that only developments that may be able to sustain a decentralised energy and heat network are obliged to examine the potential for it. Only if it is practicable and viable will provision be required.

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<sup>39</sup> See *Planning and Energy Act 2008*, s1, and *Deregulation Act 2015*, s43.

<sup>40</sup> See NPPF, paras 173-174.

165. The second part of submitted policy SWDP 27 sets out the approach to proposals for what it refers to as off-site renewable and low-carbon energy schemes. The term "off-site" is somewhat confusing, and **MM15/27A** replaces it with the more explicit "stand-alone". **MM15/27A & 27B** are needed to amend the provisions of this part of the policy and the reasoned justification, insofar as they apply to wind turbines, so that they are consistent with the written ministerial statement of 18 June 2015 on this matter<sup>41</sup>.
166. With all the modifications described, which are necessary for soundness, the SWDP's policies for telecommunications, broadband and energy are justified, effective and consistent with national policy.

***Issue 11 – Are the SWDP's policies for the management of water and mineral resources, pollution and waste justified, effective and consistent with national planning policy?***

167. Policy SWDP 28, which the Councils have prepared in close consultation with the Environment Agency, gives detailed guidance on the management of flood risk in development proposals. The changes introduced by **MM15/28A** are needed to ensure that its requirements, and the types of development to which they apply, are fully clear. The revised, proportionate requirement in SWDP 28 B iii for developers to explore opportunities to reduce flood risk overall is not an unjustified demand to provide "betterment" in all cases. **MM15/29A** is needed to clarify the requirements of policy SWDP 29 for sustainable drainage systems, including a necessary acknowledgement that provision should be appropriate to the nature and scale of each development proposal.
168. **MM15/30A** amends policy SWDP 30 to bring it into line with national policy on setting standards for water efficiency, and to remove reference to a withdrawn government circular. The optional Building Regulations standard of 110 litres per person per day is justified by local evidence in the *South Worcestershire Water Cycle Study* [CD 135, 135a & 257]. To ensure that the policy is implemented effectively, **MM15/30B** makes it clear, in the reasoned justification, that developers should engage with Severn Trent Water to secure necessary water-related infrastructure. **MM15/31A** adds a necessary reference to Air Quality Management Areas to the list of places and qualities that will be protected by policy SWDP 31 from harmful pollution, and clarifies the policy by eliminating duplicate and superfluous wording.
169. **MM15/32A & 32B** are needed to ensure that robust criteria are applied by policy SWDP 32 to safeguard mineral resources in Minerals Consultation Areas. Part of submitted policy SWDP 33 duplicates a policy in the county-wide Waste Core Strategy: that is rectified by **MM15/33A & 33B**, which are also required to bring the Plan's references to national waste planning policy up to date.
170. With these modifications to ensure their soundness, the SWDP's policies for the management of water and mineral resources, pollution & waste are justified, effective and consistent with national policy.

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<sup>41</sup> House of Commons: Written Statement (HCWS42).

***Issue 12 – Are the SWDP's policies for tourism and community uses justified, effective and consistent with national planning policy?***

171. As submitted, policies SWDP 34, 35 and 36, dealing respectively with tourist development, visitor accommodation, and caravan, chalet and camping sites, are overly complex and thus ineffective. **MM15/34A, 35A, 35B, 36A & 36B** are needed to clarify their requirements, eliminate duplication and relocate explanatory material to the reasoned justification. The changes to policy SWDP 34 also make it clear that it seeks to promote enjoyment and understanding of the natural, as well as the historic, environment. With these amendments, the policies provide a clear explanation of how a decision-maker should react to future development proposals.
172. Policy SWDP 37 is concerned with the provision and expansion of community facilities and the criteria that will be used to consider proposals that would result in the loss of such facilities. As submitted, some of its requirements are not clearly-defined, and others confusingly duplicate those of policies elsewhere in the Plan. **MM37A & 37B** are necessary to tighten up the policy and ensure that it sets out a clear and effective basis for considering these proposals, including specific criteria for commercial and non-commercial premises.
173. The modifications make it clear that the sequential test will apply to those community facilities which also meet the NPPF's definition of main town centre uses. They also introduce a requirement for applicants to consider whether combining or rationalising existing facilities would be more appropriate than providing a new facility: this is an important sustainability consideration.
174. The related issues of waterfront development, marinas and boatyards, and leisure and residential moorings are covered by policies SWDP 40, 41 and 42. **MM15/40A, 41A, 41B & 42A** are necessary to ensure that the policies' requirements are clear and consistent both with one another and with those of other policies in the Plan.
175. Subject to the modifications that are necessary for soundness, the SWDP's policies for tourism and community uses are justified, effective and consistent with national policy.

***Issue 13 – Do the Plan's policy requirements take adequate account of the need to ensure that they do not compromise the viability of development?***

176. NPPF paragraph 174 advises that the cumulative effects of local and national standards and policies should not put implementation of Local Plans at serious risk, and should facilitate development throughout the economic cycle. Comprehensive and up-to-date viability evidence to support the SWDP has been provided, in the form of the September 2014 *LP Viability Update* [EX/612] and the December 2014 *CIL Viability Update* [EX/806]. Each of these documents models a range of representative development scenarios, including individual strategic sites, making reasonable assumptions about land

and development costs, and taking account of all the costs likely to be imposed on development by applicable standards and policies.

177. As is made clear in other sections of this report, this viability evidence has directly influenced a number of modifications to the Plan's policy requirements, including on green space, affordable housing, and renewable or low-carbon energy generation. The various policy requirements also make it clear, where appropriate, that individual development viability considerations will be taken into account at the development management stage. I am satisfied that, subject to these necessary modifications, the Plan's policy requirements take adequate account of the need to ensure that they do not compromise the viability of development.

## **SITE ALLOCATION POLICIES**

### **Issue 14 – Are the Plan's site allocations justified and deliverable; and are the specific requirements of the site allocation policies justified and consistent with national policy?**

#### *General points*

178. The SWDP makes over 200 site allocations, ranging from sites for five dwellings to urban extensions for over 2,000. They comprise sites allocated in the submission version of the Plan [CD 001]; additional sites put forward by the Councils as Proposed Modifications [EX/601], mainly in response to the increased housing requirement recommended in my FICs; and a number of other sites on which planning permissions were granted between submission of the Plan and finalisation of the PMs in September 2014<sup>42</sup>. In preparing my report, I have had regard to the representations on the site allocations made at each stage of consultation: on the submission plan in 2013, on the PMs in 2014, and on the MMs in 2015. I have also taken account of all the representations advocating alternative sites to those chosen by the Councils ("omission sites").

179. In deciding which sites to allocate for development, the Councils followed a structured assessment process, supported by SA. The process followed is described in CD 080 and CD 081, for the strategic and non-strategic site allocations in the submission Plan, and in EX/611a and EX/621 for the additional sites brought forward in the 2014 Proposed Modifications. Account was taken of the IDP and separate evidence documents were prepared on environmental constraints, the Green Belt, flood risk, water supply, landscape and the historic environment. The resulting allocations reflect the overall development strategy and settlement hierarchy (policy SWDP 2), with most new development located in and around Worcester and the larger towns, including urban extensions of an appropriate scale.

180. Having reviewed all these documents, I am satisfied that the Plan's site allocations were arrived at through a fair and rational process, based on

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<sup>42</sup> Sites with planning permissions granted later than this are not shown as allocations in the Plan. However, they will normally count as commitments when assessing the housing land supply.

proportionate evidence, that took account of all relevant considerations. Development at many of the sites, particularly the greenfield allocations, will inevitably incur some environmental costs, but these have been properly assessed and appropriate mitigation measures have been put in place, including through MMs where necessary.

181. In general terms, therefore, I find that the site allocations are justified in order to meet the development needs of the Plan area. In the following sections of the report, I consider only those allocations which raise significant specific questions in respect of their soundness. Where a site is not mentioned individually, it can be assumed that I consider it to be a sound allocation.

182. I considered the deliverability of each allocated housing site at the examination hearings, and adjustments were made to the Councils' trajectories where necessary. All those adjustments are reflected in the latest version of the trajectories, dated 17 August 2015 [EX/914], which I have taken into account in reaching my conclusions on the housing land supply (see Issue 3 above). Any significant deliverability issues affecting individual sites are discussed in the following sections.

183. As submitted, many of the site allocation policies contained requirements that duplicated those of other SWDP policies on, for example, open space provision and contributions towards supporting infrastructure. Since the Plan is to be read as a whole, that was unnecessary. In order to make the allocation policies more focussed and effective, therefore, the MMs strip out these duplicate requirements. Any unjustified phasing requirements are also removed, for the same reasons as for the deletion of the phasing requirements in policy SWDP 3, explained under Issue 3 above.

184. Only requirements that are locally-specific are retained, including provisions to address particular flood risk and drainage constraints, measures to safeguard particular heritage assets<sup>43</sup>, and the specific infrastructure requirements for the urban extensions (see Issue 4 above). This is explained by **MM15/43P**. However, the changes do not at all weaken the requirement for necessary infrastructure to be provided to support development at the other allocated sites. Policy SWDP 7 and its reasoned justification set out the robust mechanism to achieve this.

185. The MMs reflect all the changes made to the site allocations since the Plan was submitted for examination, including all the new sites introduced by the 2014 PMs, and deletions of sites where changed circumstances mean they are no longer deliverable. The MMs also include minor factual adjustments to indicative capacities and site areas. To avoid excessive repetition, in what follows I do not refer again to these general aspects of the MMs, or to the changes summarised in the previous two paragraphs. Instead I confine my attention to those aspects of the MMs that are necessary to resolve particular issues of soundness.

#### *Directions for growth outside Worcester City Boundary*

186. Policy SWDP 45, as modified by **MM15/45A**, allocates six urban extension areas around Worcester. There are two large urban extensions, at Worcester

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<sup>43</sup> See EX/915a.

South (Broomhall Community and Norton Barracks Community, SWDP 45/1) and Worcester West (Temple Laugherne, SWDP 45/2), each providing over 2,000 dwellings and employment land; and three smaller extensions of around 250-300 dwellings, at Worcester East (Kilbury Drive, SWDP 45/3), Worcester North (Gwillam's Farm, SWDP 45/4) and Swinesherd Way (SWDP 45/5). In addition, around 20ha of land is allocated for the Worcester Technology Park (South Phase) (SWDP 45/6), intended as an integrated addition to the current North Phase.

187. The Swinesherd Way allocation was not in the submission version of the Plan: it was first introduced at the 2014 Proposed Modifications stage in response to the increased housing requirement arising from my Stage 1 FICs. The significant increase in dwelling numbers at Worcester West – from around 975 in the submission version to around 2,150 – and the more modest increase of 150 dwellings at Worcester South were also introduced at that stage, for the same reason. Diagrams are provided in the Plan to illustrate the broad distribution of land uses – including housing, employment, educational and community facilities – at the two large urban extensions. However, these are not determinative of the detailed layout, which will be decided through the development management process.
188. Because of the particular importance of the urban extensions to the Plan as a whole, policy SWDP 45 sets out details of the infrastructure and other planning requirements for each. These are amended by **MM15/45A** to ensure that they are comprehensive, consistent and effective. At both Worcester South and Worcester West, the amended policy makes it clear that development will only proceed in step with the implementation of the Worcester Transport Strategy, and in particular the dualling of relevant sections of the A4440 Southern Link Road. These requirements are necessary to ensure that adequate highway infrastructure is in place in time to support the proposed development.
189. Amended policy SWDP 45 also requires measures to be taken at each of the urban extensions to provide access by non-car means of travel to destinations in Worcester city. At Worcester South and Swinesherd Way, there is a specific requirement for pedestrian/cycle bridges to provide safe links across the A4440. These requirements are essential to ensure that there are adequate travel opportunities for all future residents.
190. SWDP 45/2, as amended by **MM15/45A**, requires a road to be provided within the Worcester West site between the A44 and Martley Road. There was no such requirement in the submission version of SWDP 45, but the 2014 PMs to the policy included a requirement for *a spine road within the site between the A44 and Martley Road*.
191. In the Statement of Common Ground [SoCG] agreed between the prospective developers and the Councils<sup>44</sup>, the plan at Appendix 1 showing the Worcester West site boundary includes an indicative line, skirting the western edge of the site, for what is described in the legend as a "spine road" but is in fact more akin to a bypass around the development. However, the Areas of Disagreement section specifically records that the parties had not reached

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<sup>44</sup> EX/632.

agreement on the indicative alignment of, or the approach, to a "spine road" as shown on that plan.

192. On the contrary, the Matters of Agreement record the parties' assent to a statement that *work to agree the primary street (including its alignment) as shown on the attached parameters plan, and designed to a 30mph standard, is ongoing* and that it *should provide the necessary highway connections to the highway network and specifically between the A44 and Martley Road as sought in policy SWDP 45/2*. The parameters plan, at Appendix 2 to the SoCG, shows a winding primary street through the middle of the urban extension, not around its edge. Thus the SoCG presented two contrasting views of the "spine road" referred to in the PMs.
193. I am aware from local representations that there are already significant traffic movements, including heavy goods vehicles, on the roads and lanes around the western edge of Worcester. The provision of a fast, direct route between the A44 and Martley Road is seen by many people as one way of relieving this pressure on unsuitable local roads. But there is no obligation on the developers of Worcester West to resolve existing traffic problems that do not arise directly from the development itself.
194. The evidence I heard from the local highway authority was inconclusive as to whether a 30mph road through the middle of the site would be adequate to cater for the effects of the development traffic. Equally, however, I was not shown any highway evidence that clearly indicated a need for a "bypass" route. Further modelling work is needed to resolve the issue.
195. In these circumstances, it is appropriate for the amended policy simply to require provision of a road within the site between the A44 and Martley Road, leaving its alignment and form to be determined through TA and master-planning of the site. Policy SWDP 7, and SWDP 45/2 itself, provide clear guidance that any contributions towards its provision must only be sought where they are proportionate and directly related to the development.
196. At Swinesherd Way, policy SWDP 45/5, as amended by **MM15/45A**, requires the principal access to the site to be from the A4440, with additional measures to prevent or limit the use of other accesses. This is necessary to ensure that traffic from the development does not overload unsuitable local roads.
197. As submitted, SWDP 45 required 40% affordable housing to be provided at each of the urban extensions (apart from Worcester Technology Park). 40% is consistent with policy SWDP 15's "sliding scale" figure for greenfield sites across the Plan area as a whole (see Issue 7 above). However there is evidence from the Councils' own viability work that 40% may not be achievable on the large urban extensions. Therefore, while policy SWDP 15 itself makes it clear that the level of affordable housing at each site is subject to negotiation, **MM15/45A** adds the words "up to" before the 40% figure each time it appears in SWDP 45, in order to emphasise its inherent flexibility.
198. An alternative approach might have been to include a bespoke affordable housing requirement figure for each of the large urban extensions. But that would have run the risk of duplicating negotiations that will need to take place anyway as part of the development management process. Moreover, any

resulting policy figure could have been rendered out-of-date soon after adoption by subsequent changes in circumstances. Thus I consider the amended policy SWDP 45 approach to be sound.

199. The size of the two large urban extensions, and their location close to Worcester and the main transport routes passing through the county, make each suitable to accommodate a Gypsy and Traveller site of up to 10 pitches. The need for this level of provision is demonstrated by the GTAA (see Issue 8 above). There is no firm evidence to show that such provision would prejudice delivery of the other required development at Worcester West and Worcester South. To provide the necessary certainty, **MM15/45A** explicitly requires the pitches to be provided within these two urban extensions.
200. The limits which policy SWDP 45, as amended by **MM15/45A**, places on the scale of retail provision at the two large urban extensions are appropriate, having regard to the scale of each and their positions in the retail hierarchy.
201. The two large urban extensions include land formerly designated as Significant or Strategic Gap in the Malvern Hills District and Wychavon Local Plans. The amended areas of Significant Gap now shown in the revisions to the SWDP Policies Map are necessary to provide satisfactory physical and visual breaks between the urban extensions and the surrounding settlements, including Upper and Lower Broadheath, Rushwick, Kempsey and Whittington, in order to preserve the distinctive character of the latter.
202. An additional area of Significant Gap is designated within the Worcester South allocation, to the south of Norton Barracks. The Councils see this as necessary in part to maintain visual separation between the development and the motorway, and in part to maintain the setting of the existing development at Norton Barracks. Similar considerations lie behind the requirement that no more than 85 dwellings must be provided east of Norton Road. The policy does, however, allow a degree of flexibility in that development of up to 40 dwellings is specifically permitted in this part of the Significant Gap in order to provide surveillance of the open space. This is clarified by the amendments made by **MM15/45A**.
203. The same amendments would create additional flexibility by allowing the option of locating the required Gypsy and Traveller pitches in the Significant Gap. However, the amended policy does not prescribe their location, which will be determined through the master-planning process. Given the size of the Significant Gap, if the Gypsy and Traveller pitches were located there, it is unlikely they would involve so much additional development as to compromise its purpose, in my view. But the principle of keeping development away from the edge of the motorway<sup>45</sup> would need to be maintained through positive development management.
204. I acknowledge the point that, notwithstanding the policy modifications, this Significant Gap designation restricts the developer's options by effectively dictating the position of most of the open space and recreation facilities. But I have seen nothing to demonstrate that a successful development could not be

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<sup>45</sup> See the discussion of the Swinesherd Way Significant Gap below.



achieved on this basis, and thus I do not find that these aspects of the policy render the Plan unsound.

205. The Swinesherd Way urban extension site (in Wychavon District) did not previously form part of a designated Strategic Gap. In this respect it differs from the nearby mixed-use site to the north at Nunnery Way (SWDP 43/20), discussed below, which lies within the former City of Worcester Local Plan's "M5 Protection Corridor". Nonetheless, I agree with the Councils that it is necessary to maintain a continuous gap between the M5 and the eastern edge of the buildings at Swinesherd Way, in order to provide a visually-acceptable setting for the development.
206. The harmful effects of not doing so are illustrated by the existing development a few miles away to the south of M5 junction 5 at Droitwich. Development there appears to back onto the motorway itself, allowing no space to enable passers-by to appreciate that it actually forms the edge of a distinct settlement. A similar situation here, at what will become the edge of the Worcester urban area, would be highly detrimental to the setting of the city.
207. The revisions to the Policies Map therefore maintain an appropriate minimum gap along the eastern edge of the Swinesherd Way site, widening towards the middle where flood risk precludes development in any case. This is consistent with the approach taken at Nunnery Way. Although an illustrative masterplan for Swinesherd Way proposes development within the Significant Gap, I see no compelling reason why an alternative scheme could not successfully accommodate around 300 dwellings on the rest of the allocation.
208. Development at Worcester East and Worcester North has already begun. The Councils' latest housing trajectories assume that development will begin at Worcester South and Worcester West in 2016/17, initially at a relatively low rate but building up to around 200 dpa at each by the early 2020s. Having regard to all the evidence I heard on this matter, including on the status of the submitted planning applications, progress in the associated negotiations, and the timescales for delivering necessary infrastructure, these are reasonable assumptions. The latest trajectories are more realistic in respect of the early stages of development than previous versions.
209. The size of these two urban extensions, which will allow for several outlets to operate simultaneously on each, combined with the strong demand for housing in south Worcestershire, should ensure that the anticipated maximum output levels are achieved as anticipated. Even if there were an unexpected slippage of the commencement of delivery into 2017/18, this would not compromise the achievement of the Plan's overall housing target or the maintenance of the five-year housing land supply.
210. In reaching these views, I have had regard in particular to the *Report into the Delivery of Urban Extensions* (February 2014), by Hourigan Connolly [B/4a]. The report considers the factors associated with bringing forward major urban extensions of 500 or more dwellings, and includes a series of case studies of such developments across Great Britain. It concludes that an eight-year period should be allowed from the preparation of an outline planning application to the delivery of homes.

211. However, it is unclear from the report what steps were taken to ensure that the case studies that underlie this conclusion are fully representative. Moreover, there are such substantial variations in the timescales in each case, due presumably to location-specific factors, that it is difficult to see how an overall average figure is meaningful when considering any individual site. In assessing the timescales for delivery at Worcester South and Worcester West, therefore, the local factors which I have taken into account are a more reliable guide.

#### *Worcester City allocations*

212. **MM15/43A** amends the indicative dwelling figure on the Old Northwick Farm site (SWDP 43/4) from 40 to 54, to reflect a current planning application scheme. Increasing the figure further might be acceptable in terms of flood risk and biodiversity, but it would involve extending the area of built development further to the west, beyond the main body of existing housing along Old Northwick Lane, and beyond the line of pylons that creates an effective visual boundary to the site. Whereas the 54-unit scheme would round off the existing area of development, such an encroachment into the open riverside land to the west would appear harmfully intrusive.
213. The hotel element of the mixed-use allocation at site SWDP 43/15 (Worcester Woods Business Park) is deleted by **MM15/43A** because of the site's location outside any existing centre and the absence of any specific justification for a hotel there.
214. Land at Nunnery Way (SWDP 43/20) was allocated in the submission version of the Plan to provide a new stadium for Worcester City football club. However, the club's plans have changed and so **MM15/43A** reallocates the site for mixed, predominantly employment use, for which planning permission was granted in June 2015. The revised allocation now contributes to meeting the SWDP 3 employment land requirement. There is a corresponding change to the Policies Map, which shows the western edge of the Significant Gap within the site following the edge of the overhead transmission line easement. This will provide an adequate visual break between the M5 and the developed area of the site.
215. Site 43/23, Land south of Warndon Wood, is an employment allocation also located immediately to the west of the M5. The requirement for development to take place after 2019 is specifically justified here by the need for it to complement, and not prejudice, delivery of the strategic Worcester Technology Park on the opposite side of the M5. The Significant Gap within the site is defined in the same fashion as for the Nunnery Way site and achieves the same objective.
216. The Warndon Wood site has good highway access from the M5, like the existing employment development further to the north. Its allocation is needed to meet the SWDP 3 employment land requirement, and no marketing or other substantial evidence has been provided to show that employment development here is infeasible. Moreover, it is some distance away from facilities in the built-up area of Worcester, from which it is separated by the busy A4440. I therefore find no grounds to support the suggestion that the site should be reallocated for residential development.

217. The housing site at Hopton St (SDWP 43e) consists of an area of mown grass adjacent to the backs of existing houses, and a larger, overgrown area sandwiched between a cemetery and an allotment site. It is likely that it will be developed by a housing association. There is public access to the site at present and it is valued by local residents for its wildlife and as a place for dog-walking, informal play and recreation. **MM15/43A** amends the allocation to include a specific requirement that about 50% of the site will be set aside as Green Space for open space, habitat improvement and links to the wider Green Space network. The corresponding amendment to the Policies Map indicates that the Green Space will take up the western part of the site.
218. I consider that this represents a reasonable compromise, enabling much-needed affordable housing to be provided while safeguarding a substantial proportion of the existing open space. The retained open area will be large enough to be used for recreation, and it will still provide wildlife habitat links to the other open areas to the north and south. Given the value that residents place on the land, it would be desirable for the local community to be involved in decisions on any future landscaping and habitat improvement works.
219. The Battenhall Road housing site (SWDP 43I) currently forms part of the Green Space network, and so **MM15/43A** makes specific requirements for about 40% of the site to be set aside for biodiversity provision and habitat links. The policy gives an indicative figure of 20 dwellings for the site, similar to the scheme for 23 that the developer publicised to local residents in January 2014 and submitted in response to the Councils' call for additional housing sites.
220. The developer has since promoted an alternative scheme for 31 dwellings, involving additional, off-site enhancements to the adjacent public amenity land to the south, alongside Duck Brook. Following consultation, a further change is made to **MM15/43A** to make it clear that those off-site enhancements are not required for the 20-dwelling scheme. But in the absence of clear evidence that the site could successfully accommodate as many as 31 dwellings, the indicative figure of 20 is sound. It would not preclude planning permission being granted for a higher number if its feasibility can be demonstrated at the development management stage.

#### *Worcester City Centre allocations*

221. Policy SWDP 44 A allocates three city-centre sites (including two existing shopping malls) for development. The submission version of the policy referred to "retail" development on these sites, but is amended by **MM15/44A** to refer to "retail-led" development. This is to recognise that, while the three developments will consist mainly of retail provision, other complementary uses will also be acceptable. Further amendments are made to SWDP 44/1 to emphasise the need to protect and enhance the setting of the cathedral and adjacent listed buildings, and to SWDP 44/2 to reflect the fact that the enhancement of Angel Place has now taken place.
222. SWDP 44 B & C identify three Opportunity Zones close to the city centre within which mixed-use developments will be encouraged. **MM15/44A** amends these sections of the policy to reflect up-to-date information on capacities and planning permissions, and to clarify the relationship that is sought between different land uses. As modified, the policy provides a positive and flexible

framework that is consistent with national policy and will allow development to come forward to help regenerate these areas.

223. As paragraph 3 of the reasoned justification to SWDP 44 and the Policies Map changes make clear, the Worcester City Centre boundary corresponds to the boundary of the central shopping area as shown in the former City of Worcester Local Plan. I have considered the case for extending the city centre boundary and its secondary shopping frontage designation eastwards to take in St Martin's Quarter [SMQ] and the Shrub Hill Retail Park. During my site visit I walked around the whole of the defined city centre and the proposed extended area.
224. SMQ and the Retail Park contain a substantial amount of retail floorspace – equivalent to around a third of the floorspace within the city centre boundary. However, their character is entirely different from that of the city centre. They consist mainly of large-format stores with extensive areas of surface-level parking, whereas the city centre provides a more pedestrian-friendly layout, with shopfronts of varying widths set along a traditional street network.
225. Even the shopping malls in the city centre are knitted into the street pattern, providing multiple accesses and through routes for shoppers. Thus the city centre functions as an integrated whole, with no substantial barriers to pedestrian movement through it. By contrast, SMQ and the Retail Park form two physically distinct areas, separated from the city centre and each other by traffic-dominated main roads with only a few crossing points.
226. For these reasons, I find no grounds for including SMQ and the Retail Park within the city centre boundary. There is no substantial evidence to show that their viability is undermined by non-inclusion. On the other hand, retaining the existing boundary will encourage investment on the allocated city-centre retail sites and thus support the centre's vitality and prosperity.

#### *Pershore allocations*

227. At the hearing session I was told of pre-application discussions that have taken place with a sheltered housing provider on site SWDP 46/1 (Garage, High St). In the light of these, the Councils are justified in taking the view that development will come forward here by the middle of the Plan period.

#### *Pershore urban extensions*

228. **MM15/47A** amends policy SWDP 47/1 (Land North of Pershore) to clarify that, while capacity enhancements at the Pinvin Road junction are necessary to support the proposed development of about 695 dwellings, the provision of a new link road will only be required if justified by further TA work at development management stage. The northern boundary of the land parcel to the west of Station Road is well related to the existing landform, and it would not be appropriate for built development to continue to the north, over the ridgeline. Taking into account the number of house-builders involved and the current situation regarding planning permissions and planning applications on each part of the allocation, the revised delivery forecast included in the Council's latest trajectories is realistic.

229. Developing land south of Wyre Road, to the east of the Travis Perkins site, would erode the undeveloped gap here between the edge of development in Pershore and the nearby village of Wyre Piddle. The allocated employment land to the north-east of Pershore (SWDP 47/2) has a different relationship with Wyre Piddle, as it is separated from the village by main roads and an area of Significant Gap.

*Droitwich Spa allocations*

230. **MM15/48A** clarifies that the site allocation at Netherwich Canal Basin (SWDP 48/6) is to be developed for mixed residential, retail and leisure uses, as is appropriate to its waterside setting. Since the submission of the Plan and the publication of the PMs, a large windfall site has become available through the demolition of the former Baxenden chemical works nearby. It would be unrealistic to expect any emerging plan to anticipate all such events, and unacceptably time-consuming for it to be revised every time they occur. The Councils have since said that they will seek to take a comprehensive approach to development in this part of Droitwich, and there is nothing in the Plan's site allocations that would stand in the way of that.

*Droitwich Spa urban extensions*

231. The two housing-led urban extensions at Droitwich (Copcut Lane and Yew Tree Hill (SWDP 49/1 & 49/2)) both have planning permissions for over 700 dwellings, the latter granted on appeal. There is no evidence to show that additional areas of land, at the southern end of the existing allocation, need to be included in the Yew Tree Hill site to secure its delivery. Even with the additional land, the site boundaries would remain irregular due to neighbouring property ownership. Underground brine runs are common in and around Droitwich and I see no reason why their presence here, or the potential requirement for highway improvements on Pulley Lane, should prevent development from coming forward by 2016/17 as envisaged in the Councils' trajectories.

232. **MM15/49A** deletes the reference to phasing from the employment land allocation at Stonebridge Cross Business Park (SWDP 49/3) for the reasons described in the *General points* section and Issue 3 above. Clearly it is important that any future decisions about development here take proper account of their effect on the operations of existing businesses, and particularly on the usability of the helipad operated by the existing Rotorspan helicopter servicing business at Stonebridge Cross. But that would be a necessary part of the development management process in any event. The removal of the reference to phasing does not weaken the need for attention to be paid to it.

*Evesham allocations*

233. As submitted, policy SWDP 50 allocated land off Abbey Road (SWDP 50/7) for a mixed-use residential and leisure development including up to 200 dwellings. The allocated site, running down towards the River Avon, was once used for horticulture in association with Evesham Abbey, and most of it is now under agricultural cultivation. Along the riverbank itself there are meadows with

public access. The remains of Abbot Chyryton's Wall, a Scheduled Monument that defines the boundary of the former abbey precinct, lie within the site.

234. The changes to the Policies Map published for consultation alongside the MMs propose extending the boundaries of the site allocation. But this does not involve any increase in the area of the site that is intended for built development. Instead, the extended areas, together with parts of the original site allocation, are designated as Green Space. They include an area of open space along Abbey Road and large areas of open space between the built development area and the river.
235. **MM15/50A** amends the policy to provide greater clarity over its other requirements: for a community orchard to reflect the town's heritage; for sensitive treatment of the southern and western perimeters of the site to maintain vistas to the river; and for the protection of Abbot Chyryton's Wall. As published for consultation, **MM15/50A** also proposed an increase in the indicative dwelling numbers to approximately 250, to be achieved through higher-density building on the same development area.
236. However, Historic England objected to the proposed increase, pointing out that no full assessment of its impact on all the heritage assets potentially affected had been made available to inform the consultation. That is a justified criticism, and accordingly I recommend that the indicative site capacity should remain at approximately 200 dwellings. However, this would not preclude permission being granted for a higher number if it is justified by such a full assessment: the precise figure that can be accommodated successfully is a matter to be determined at the development management stage. There is no evidence to support setting an absolute maximum of 200 dwellings, nor have I seen any quantified evidence to show that any specific minimum number of dwellings is required to make the development viable.
237. In addition to the advertised changes, I also recommend further modifications to the policy, as suggested by Historic England, to reinforce the policy protection for heritage assets and their setting. Subject to those further modifications, I consider that development of the site could take place without unacceptable harm to the significance of any heritage assets. The policy provides adequate safeguards to ensure that development will not harmfully impinge on the setting of the remains of Evesham Abbey itself and the listed buildings associated with it, on the riverside setting which forms part of the historic context for the Abbey's development, or on the Evesham Conservation Area. Development of the site in accordance with the modified policy requirements will also ensure that the setting of Abbot Chyryton's Wall is enhanced.
238. The site allocation is highly controversial locally and I recognise that the loss of such a large area of open land close to the town centre represents a major change that will have some negative effects. However, there is only very limited public access to the land at present and the proposed development has the potential to provide substantial improvements and extensions to the public riverside meadows. Built development on the site will largely be confined to the area between the existing development site at Bewdley Lane / Blind Lane (SWDP 50/3) to the north, and the leisure centre to the south. This area has

very good access on foot to the shops and other facilities in Evesham town centre.

239. The Plan provides adequate safeguards against flood risk. The modified policy requires vehicular access to be provided only from Abbey Road, to ensure there is no unacceptable increase in traffic on other local streets. A package of transport improvements is proposed for Evesham (see policy SWDP 4), and the local highway authority has no objection to the proposed allocation. I observed traffic conditions on Abbey Road during the afternoon peak period, and witnessed some delays to southbound traffic at the Abbey Bridge traffic lights. However, I have seen no evidence to demonstrate that development here would make existing congestion problems in the town substantially worse.
240. There is a current planning application for 380 dwellings at the Abbey Road site. Determination of that application is a matter for the LPA and it does not affect my assessment of the site allocation in the Plan. Taking all the above points into account, I find that, provided it is modified as explained above, the allocation is sound.

#### *Evesham urban extensions*

241. As submitted, the site allocation at Cheltenham Road, Evesham (SWDP 51/1) provided for the development of around 400 homes. However, planning permission for development on an adjacent site within the designated Significant Gap to the north led the Councils to propose re-drawing the Significant Gap boundary to the west and south of the site.
242. The relatively slight narrowing of the gap adjacent to the site will still leave a substantial open area between the majority of the development site and the River Isbourne. Together with the larger area of Significant Gap west of the river, the extended area to the south and the designated strip of Green Space along the site's southern boundary, it will ensure that the attractive rural setting to the south and west of Evesham is maintained. **MM15/51A** amends the policy to clarify that complementary landscaping is required on the boundaries of the site itself.
243. The resulting increase in the size of the Cheltenham Road site permits **MM15/51A** to raise its indicative dwelling capacity to about 500 homes. The site lies at the southern edge of Evesham, with good access to the main road network. Highways England are satisfied that the additional traffic resulting from the increased site capacity can be accommodated on the A46, subject to any necessary junction improvements. There is ample scope within the site for the provision of pedestrian and cycle routes towards the town centre.
244. I see no need to extend the allocation area down to the riverbank and reduce the width of the Significant Gap still further, as suggested by the site promoters. The purpose of the Significant Gap here is not only to maintain a separation between Evesham and Hampton, but also to safeguard the rural setting of the town, which is visible from higher ground within the Cotswolds AONB. That purpose could be jeopardised if part of the gap were used to provide formal amenity space for the development, for example. The glasshouses within the Significant Gap are part of the existing rural setting.

The potential further increase in site capacity of 50 dwellings that would result from the proposed extension is not needed to meet the Plan's housing requirement.

245. The site area for allocation SWDP 51/3 (Vale Industrial Park, Evesham) is increased by **MM15/51A** from 20ha to 34ha, to provide space for necessary landscaping as required by the policy.

*Malvern allocations*

246. **MM15/52A** deletes the allocation for 35 dwellings at the former playing fields, Green Lane, Malvern Wells (SWDP 52/3) in the submission version of the Plan. The site lies in the Malvern Hills Area of Outstanding Natural Beauty [AONB]. NPPF paragraph 115 advises that great weight should be given to conserving landscape and scenic beauty in the AONB. The site lies just beyond the eastern edge of continuous built development at Malvern Wells. The discontinuous development alongside and opposite the site, and further east along Hanley Road (including the buildings at the Three Counties Showground), appears as scattered development within the countryside rather than as a continuation of the urban area. Despite its former use as playing fields, the site's grassed surface, partial tree cover and strong boundary vegetation mean that in views from the adjacent hills it blends indistinguishably with the surrounding countryside.

247. I have had regard to all the evidence submitted on this site allocation. During my site visit I saw that the site is clearly visible from various prominent public viewpoints along the Malvern Hills ridge, including Pinnacle Hill, Jubilee Hill and Perseverance Hill. Although not identified as Destination Viewpoints by the AONB Partnerships, these afford breathtaking panoramic views over Worcestershire and beyond. The site is also visible, albeit rather more obliquely, from Worcestershire Beacon, which is identified as a Destination Viewpoint.

248. Part of the fascination of the nearground views from all these hilltops is the way that fairly dense urban development in Malvern gives way abruptly to verdant open countryside. This is especially the case at Malvern Wells, where the urban development is clustered tightly at the foot of the hills, with a clean boundary provided by the converging lines of Rothwell Road to the west of the playing fields site and of Hanley Road to the north-west.

249. Even with a requirement to provide 50% green infrastructure, development of the former playing fields site would overstep that boundary, bringing an urban form of development into what is currently seen as part of the open countryside. Its incongruous appearance would be exacerbated by its isolation between open fields to the north and south. Development here would therefore fail to conserve the scenic beauty of the AONB. The allocation is not necessary to meet the Plan's housing requirement and would provide no other benefits that would outweigh the harm to the AONB. On this basis it is unsound.

250. The disused allotment site at Lower Howsell Road (SWDP 52i) was proposed as an allocation for 81 dwellings in the 2014 Proposed Modifications. It is now combined by **MM15/52A** with the adjacent site SWDP 52/7, allocated for six



dwellings in the submission version of the Plan. There is no specific justification for requiring 50% green infrastructure here, rather than the standard SWDP 5 requirement for 40%. Removing that unjustified requirement and combining the two sites provides the opportunity to increase the indicative dwelling figure to 110.

251. Victoria Road Car Park (SWDP 52s) is a 2014 Proposed Modifications allocation for 21 dwellings. This is currently a long-stay car park with 72 spaces, located just to the east of Great Malvern town centre. There is alternative long-stay parking at Priory Road fairly nearby and the Councils do not see retention of parking at Victoria Road as vital to the town's prosperity. On this basis I do not find the allocation unsound.

252. Land is allocated in the 2014 Proposed Modifications for 33 dwellings at Broadlands Drive (SWDP 52y). The site is located just outside the boundary of the Malvern Hills AONB but is visible from viewpoints within it, including on North Hill and End Hill, which I went to during my site visit. The site is currently undeveloped and has a rural appearance, adjoining open countryside to the north-west. However, to the north-east and south-east it is bounded by existing development in Broadlands Drive and Cowleigh Bank.

253. Unlike at site SWDP 52/3, therefore, development here would not overstep a clear boundary line between urban development and the open countryside. Because it would extend no further to the north-west than the existing Broadlands Drive development, it would not appear as an incongruous intrusion into the surrounding rural area. The replacement of a grassed field with a housing development would evidently have some impact on views from within the AONB, but I consider that with careful attention to design at the development management stage, material harm to landscape and scenic beauty could be avoided. I am aware that previous inspectors, in 1991 and 2006, have reached different conclusions on this point, but I have made my own assessment based on my observations and on the evidence before me.

254. The boundary of the Broadlands Drive site lies some distance away from the Grade II listed building at Cowleigh Park Farm. I have seen no evidence to indicate that the building has had any particular functional relationship with the site. Its historic rural setting has already been considerably altered by urban development to the north-east and south-east. In my view, therefore, the site is capable of being developed without substantial harm to the setting of the listed building. I note that the LPA's Conservation Officer has expressed a similar view in respect of a recent planning application for 33 dwellings on the site.

255. The issue of site drainage has been the subject of considerable correspondence and discussion at the hearing sessions. The latest position is summarised in the MM consultation response submitted on behalf of the site promoter. A hierarchical series of options for dealing with surface water drainage has been drawn up, to which the Local Lead Flood Authority and Severn Trent Water have raised no objections. On that basis it seems that a satisfactory scheme for surface water disposal is capable of being implemented.

256. The local highway authority have no objection in principle to the allocation and I see no reason to suppose that a safe access to the site cannot be provided. There is some controversy over current proposals, linked to a planning application, for alterations to the junction of Broadlands Drive with Cowleigh Bank, but that is a matter of design detail to be dealt with through the development management process. I saw during my site visit that the southern part of Cowleigh Bank becomes heavily parked-up during drop-off and collection times at Northleigh primary school, creating some minor delays to traffic movement. However, 33 dwellings would only generate a modest amount of additional traffic compared with the numbers already using Cowleigh Bank, and there is an alternative exit at the northern end of Cowleigh Bank, into Belmont Road.

257. Taking all the evidence into account, therefore, I find that no material harm to road safety nor any significant worsening of conditions on the local road network is likely to arise from the Broadlands Drive development. Overall, the allocation is sound.

*Malvern Technology Centre (QinetiQ)*

258. Following a review of the previous employment allocation on this site, the submission version of policy SWDP 53 proposed a mixed-use development of approximately 250 dwellings and 4.5ha of B1(b) uses. There is a specific justification for the B1(b) restriction here, given the site's proximity to the existing Malvern Hills Science Park. **MM15/53A & B**, which include a new diagram, clarify that this mixed-use allocation is to occupy the southern and eastern part of the site (including the formerly-separate "S&T" site next to St Andrew's Road). The remainder of the site is to be retained by the landowners, QinetiQ, and allocated for general B1 development.

259. The modifications also increase the number of dwellings in the allocation to approximately 300, reflecting a reassessment of its capacity. The landowner seeks a further increase of around 50 dwellings, but having visited the site and considered the evidence and plans submitted I am not persuaded that more than about 300 dwellings could be successfully accommodated while providing adequate open space and separation between the residential and employment uses. The allocation for approximately 300 dwellings would not preclude permission being granted for a somewhat higher number if a satisfactory scheme were to be brought forward in future.

260. As submitted, policy SWDP 53 required 100 of its 250 dwellings to be affordable, a rate of 40%. It is amended by **MM15/53A** to a more flexible requirement for up to 40% of the 300 dwellings to be affordable housing, for the same reasons as for the similar modifications to policy SWDP 45 (see above). The general SWDP 15 affordable housing figure for brownfield sites in Malvern Hills has been reduced to 30% in the light of the viability evidence. But there is a specific viability assessment for the QinetiQ site which demonstrates that it may be able to provide 40% affordable housing, depending on the level of other developer contributions sought<sup>46</sup>. The policy is therefore sound in seeking a figure of up to 40%, bearing in mind that, as

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<sup>46</sup> See EX/616, p93, Table 10.18a.

policy SWDP 15 makes clear, the actual affordable housing contribution will be subject to negotiation at the development management stage.

### *Blackmore Park*

261. Policy SWDP 54 allocates land for an extension to the existing industrial estate at Blackmore Park, outside Malvern. **MM15/54A** amends the site area so that it more accurately reflects the existing site boundaries. There is a corresponding alteration to the Policies Map. The modification also removes an unnecessary requirement for a masterplan and other superfluous wording from the policy.

### *Development at North-East Malvern*

262. Policy SWDP 56 allocates land at North-East Malvern for an urban extension comprising 800 dwellings, 10ha of employment land and community facilities. Policy SWDP 7 requires that the infrastructure required to support new development must be operational no later than the phase of development for which it is needed. This applies to the highway and other infrastructure improvements necessary to support this development. Having considered all the representations, including those of the local highway authority, I see no reason to consider that appropriate access arrangements cannot be made.

263. As submitted, there was some overlap between the requirements of Parts B and C of policy SWDP 56. These are eliminated, and the requirements are clarified where necessary, by **MM15/56A & B**. As part of this clarification, an explicit statement is made that up to 40% of the dwellings should be provided as affordable housing. The rationale for this is the same as for the parallel requirement at the QinetiQ site.

264. **MM15/56A** amends the policy to correct the site area figure and emphasise the need for good design of the development. As amended, the policy requires comprehensive open space provision and physical and visual separation between the development and Newland village. The evidence shows that the site is capable of being developed without substantial harm to the natural beauty of the AONB or the significance of nearby heritage assets.

265. **MM15/56A** additionally requires opportunities to be explored for providing links to the adjacent residential allocation at Lower Howsell Road (SWDP 52i) in order to facilitate pedestrian and cycle movements. However, no substantial evidence was provided to justify the need for a road link across the adjacent railway line towards the B4503. The associated requirement in the policy is therefore deleted by **MM15/56A**.

### *Tenbury Wells allocations*

266. **MM15/57A** amends policy SWDP 57 B to provide clearer guidance on the development that is sought at the former cattle market site.

### *Upton-upon-Severn allocations*

267. Two of the housing allocations for Upton-upon-Severn, at Upton Marina and Tunnel Hill (SWDP 58c & d) reflect planning permissions while the third, at Holly Green (SWDP 58/1 is an allocation in the submitted Plan. The

allocations attracted some criticism for being made at smaller settlements outside the town itself. However, the severe floodplain constraints around Upton mean that housing growth proportionate to the town's size cannot take place there. In these circumstances, allocating some growth at locations within walking distance of the town is, in my view, more consistent with the aim of sustainable development than making no allocations at all. The allocated sites are not so large as to give rise to excessive additional traffic on the local roads.

#### *Village allocation policies*

268. As submitted, sections A and B of each of the three policies allocating sites in the villages (SWDP 59, 60 & 61) were identical. As part of the rationalisation of the site allocation policies described in the *General points* above, therefore, they are combined by **MM15/59A, 59B, 60A, 61A & 61B** into a single policy (SWDP 59). However, to avoid confusion the sites themselves retain their original reference numbers. **MM15/59A** also removes unnecessary explanatory wording from sections A and B and improves the clarity of their essential provisions.

269. Apart from the sites proposed for allocation in the Plan, many "windfall" developments in the villages have gained planning permission in Malvern Hills and Wychavon in recent years. I understand that this has been due in part to the absence of a five-year housing land supply. Although concerns were raised about those additional developments at several of the hearing sessions, consideration of their merits is not within my remit.

#### *Village allocations – Malvern Hills District*

270. The Plan allocates two housing sites at Clifton-upon-Teme (Hope Lane, SWDP 59/3) and Church House Farm (SWDP 59b), both of which now have planning permission and in my view are appropriately related to existing development. At the hearing session I heard about local concern at a development proposal for another site in the village, Blue Shot Meadow. However, that proposal is not before me.

271. At my site visit in July 2015, I saw that development was well under way on site allocation 59/12 (land adjacent to the Crown, Martley), planning permission having been granted in 2013. One representor expressed strong criticisms of its effects on views of the surrounding landscape and the Martley Conservation Area. However, it is now a *fait accompli*. There would be no logic in excluding the allocation from the Plan.

272. Having considered the further information provided after the hearing<sup>47</sup>, I consider there is a very good prospect that satisfactory access and sewerage arrangements can be made for the site allocation on land adjacent to Highbrae, Clows Top (SWDP 60/4). I therefore see no reason why the site should not be capable of development by 2020/21, as envisaged in the Councils' trajectory.

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<sup>47</sup> See X2/1d & X2/7o, p & q.

273. There is no evidence to show that the site allocation at Kiln Lane, Leigh Sinton (SWDP 60d) is unsound in its current form, whether or not there would have been merit in a larger allocation.
274. I walked between all four allocated sites at Rushwick. It is true that two of them (Land at Old Bransford Road, SWDP 60/7 and Land off Bransford Road (SWDP 60t), on the north-eastern side of the A4440, have a stronger physical relationship to the western outskirts of Worcester than to Rushwick village proper. Nonetheless, both are within reasonable walking distance of the school, public house and village hall at Rushwick, and are likely to provide additional users to support those facilities, consistent with one of the objectives of the development strategy (SWDP 2 B).
275. Allocated site SWDP61/1 (Land East of Chapel Meadow, Alfrick) has outline planning permission for 14 dwellings. It currently provides a terrestrial habitat for Great Crested Newts (GCN), which will be lost or at least damaged if development proceeds. GCN and their habitat enjoy protection under the EU Habitats Directive, given effect in England by the *Conservation of Species and Habitats Regulations 2010*.
276. However, the Regulations allow for derogation from the prohibition on causing the deterioration or destruction of the habitat of protected species. The relevant licensing body (in this case Natural England [NE]) may grant a licence for, *inter alia*, *imperative reasons of overriding public interest* – which may include housing provision. NE must not grant a licence unless they are satisfied (a) *that there is no satisfactory alternative; and (b) that the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range* (Reg 53(9)).
277. Taking all the legal and other submissions on this matter into account, it appears to me that there is a reasonable prospect of a licence being issued by NE, should reserved matters approval be granted for development at site SWDP 61/1. The site at Clay Green Farm, Alfrick that had been canvassed as an alternative to the allocated site had outline planning permission for 21 dwellings refused in February 2015. (The subsequent appeal has yet to be determined.) Moreover, I understand that the prospective developer proposes substantial mitigation measures, including GCN habitat enhancement, for the land east of Chapel Meadow. On this basis, I see no necessary reason why development should not come forward on this allocated site from 2020/21 onwards, as envisaged in the Councils' trajectories.
278. The title of allocation SWDP 61/\* Land off Pearl Lane, Astley Cross is somewhat misleading, as the site is directly adjacent to the southern edge of the town of Stourport-on-Severn, albeit within Astley Cross parish. While the proposed development of 62 dwellings would generate some additional traffic movements along the B4196 towards Worcester, they are unlikely to lead to a significant worsening of traffic conditions. The site is well-placed to allow future residents to access local facilities in Stourport.

*Village allocations – Wychavon District*

279. The site allocation on land west of Leamington Road, Broadway (SWDP 59/18) is a single field within the Cotswolds AONB, at the northern edge of the village. There is continuous development all along its southern boundary, and on the opposite side of Leamington Road for the greater part of its width, and there is an existing dwelling fronting the road immediately adjacent to its northern boundary. Residential development here would therefore be well related to the existing settlement pattern. Having considered all the relevant evidence, I see no reason why satisfactory drainage could not be provided.

280. During my site visit I saw that the site was under agricultural cultivation and was similar in character to the adjacent fields to the north and west. However, its partial enclosure by existing development means that it makes only a very limited contribution to the overall quality of the landscape or the village's rural setting. Both from Leamington Road and from elevated public viewpoints on the Cotswold escarpment near Broadway Tower, development here would appear as a rounding-off of development in the village. It would not materially harm the landscape or the scenic beauty of the AONB.

281. My views on this matter are reinforced by an appeal decision of May 2015<sup>48</sup> granting planning permission for a substantially bigger development comprising open market housing and a housing with care scheme, on site SWDP 59/18 and the adjacent field to the west. I understand that a High Court challenge to that decision has since been dismissed.

282. The evidence demonstrates that about 65 dwellings can be built on land adjacent to Station Road, Broadway (SWDP 59/19) without encroaching on the area of significant archaeological deposits or adding to flood risk. The site is within the built-up area of the village and development here is supported by a land contamination study. I see nothing to prevent satisfactory arrangements being made for the football club which occupies part of the site to relocate, enabling development to begin by 2020/21 as envisaged in the Council's latest trajectories.

283. The allocation at Emley Road, Ashton-under-Hill (SWDP 60/10) allows for frontage development only, on a site opposite Bredon Hill Middle School at the northern edge of the village. The site is part of a field within the Cotswolds AONB, but is seen entirely in the context of the adjacent frontage development and the substantial developed area on the opposite side of Emley Road. It is screened from longer-distance views by the topography and nearby woodland. I therefore consider that 12 frontage dwellings here would reinforce the existing settlement pattern and would not materially harm the landscape or the scenic beauty of the AONB. However, an alternative proposal to enlarge the site so as to take in additional land to the west would appear as a damaging intrusion into the surrounding countryside.

284. Land is allocated in the Plan for development of 120 dwellings at Dilmore Lane / Station Road, Fernhill Heath (SWDP 60/16). A substantially larger housing allocation, also involving the provision of a new primary school, had been proposed in an earlier version of the emerging Plan, but it was not taken

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<sup>48</sup> Ref APP/H1840/A/14/2224292.

forward into the submission version. However, the site proposed for allocation, as shown in CD 008, continues to include land for the school as well as 120 dwellings. This is reflected in a footnote to the submitted policy, which also refers to the potential for additional development on adjacent land, not proposed for allocation in the Plan.

285. Planning permission for 120 dwellings has now been granted on the southern part of the site. I was shown no evidence of any need for a primary school on the other part of the site. In order that the Plan is clear about what is intended, the policy footnote is deleted by **MM15/59A**, and the Councils will amend the Policies Map so that the allocated site reflects the planning permission. The developer would prefer the footnote to be retained, arguing that it would provide flexibility to bring forward additional housing land at Fernhill Heath, should other allocations fail to deliver as expected. But I have found under Issue 3 that there is no need for the Plan to identify such "reserve" housing sites. Retention of the footnote would create confusion over the extent and purpose of the site allocation.
286. The allocated site adjacent to Nine Acres, Overbury (SWDP 60/20), situated in the Cotswolds AONB, is part of a tapering area of land running south from the main body of the village, west of School Lane. Nine Acres Cottage stands on a triangular site immediately to the south. Thus enclosed by development to the north and south, and with the school car park clearly visible to the north-east, the site appears as part of the built-up area of Overbury. That impression is reinforced by its mown grass surface, which contrasts with the agricultural character of the fields surrounding the village. For these reasons I find that the development of eight dwellings here would not materially harm the landscape or the scenic beauty of the AONB.

#### *Omission sites*

287. Throughout Stage 2 of the examination, I made it clear that it is not part of my role to examine the soundness of "omission" sites: that is to say, sites that were not chosen by the Councils for allocation in the Plan, at either submission or PM stage. If I had found that additional sites needed to be allocated, I would have looked to the Councils in the first instance to decide which alternative sites should be brought forward for examination. In the event, I have found that all the proposed site allocations are sound, subject to the recommended MMs, with the exception of the site at Green Lane, Malvern Wells (SWDP 52/3).
288. While I have recommended deletion of that allocation, the loss of the 35 dwellings which it would have provided makes no significant difference to the Plan's ability to meet the identified development needs of the area. The same applies to the reduction in the indicative capacity of site 50/7 (Abbey Road, Evesham) from that advanced in the MMs. As I have shown under Issue 3 above, the Plan's provisions exceed the modified policy requirements for employment land, housing and retail floorspace, providing an adequate "cushion" against under-delivery on specific sites. Consequently there is no need for me to consider further site allocations.

*Conclusion on Issue 14*

289. Subject to all the modifications that I have identified as being necessary to ensure soundness, the Plan's site allocations are justified and deliverable, and the specific requirements of the site allocation policies are justified and consistent with national policy.

**Assessment of Legal Compliance**

290. My examination of the compliance of the SWDP with the legal requirements is summarised in the table below. With one exception, which is resolved by MM15/ANPFSW & MM15/AnnJ, I conclude that the Plan meets them all.

LEGAL REQUIREMENTS	
Local Development Scheme [LDS]	The SWDP's content is consistent with each of the Councils' LDS [EX/609a, b & c] and although its adoption date is likely to be a little later than anticipated in each LDS, the delay is not significant.
Statement of Community Involvement [SCI] and relevant regulations	Each of the Councils' current SCI [EX/601a, b & c] was adopted in September 2014. Consultation on the Plan, the PMs and the MMs has complied with the SCIs' requirements, or with those of their corresponding predecessor documents, as applicable.
Sustainability Appraisal	SA has been carried out and is adequate.
Appropriate Assessment [AA]	The Habitats Regulations AA Report (November 2012) concludes that the Plan will have no significant effects or significant in-combination effects on any European site.
National policy	The SWDP complies with national policy except where indicated and MMs are recommended.
2004 Act (as amended) and 2012 Regulations.	The SWDP complies with the Act and the Regulations, except in respect of identifying the policies that are superseded by it. That failure to comply is overcome by MM15/ANPFSW & MM15/AnnJ.



## **Overall Conclusions and Recommendation**

291. The SWDP has a number of deficiencies in relation to soundness and legal compliance for the reasons set out above, which mean that I recommend non-adoption of it as submitted, in accordance with Section 20(7A) of the 2004 Act. Those deficiencies have been explored in the main issues set out above.
292. The Councils have requested that I recommend Main Modifications to make the Plan sound and legally compliant and capable of adoption. I conclude that with the recommended Main Modifications set out in the Appendix to this report, the South Worcestershire Development Plan satisfies the requirements of Section 20(5) of the 2004 Act and meets the criteria for soundness in the National Planning Policy Framework.

*Roger Clews*

Inspector

*This report is accompanied by Annexes A & B containing my Interim Conclusions and Further Interim Conclusions on Stage 1 of the examination, and an Appendix containing the recommended Main Modifications.*