



Appeal Decision

Site visit made on 21 November 2017

by **David Richards B Soc Sci DipTP MRTPI**

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

Decision date: 13 December 2017

Appeal Ref: APP/W1850/W/17/3172427

Land at Church Stile Farm, Vinesend Lane, Cradley, Malvern, Herefordshire, WR13 5LG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by BSL Strategic Ltd against the decision of Herefordshire Council.
 - The application Ref 162155, dated 7 July 2016, was refused by notice dated 26 September 2016.
 - The proposal is the development of up to 29 dwellings, village shop/community facility, village greens, orchard, biodiversity enhancements and other ancillary works.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by the Council against the Appellant. This application is the subject of a separate Decision.

Main Issues

3. The main issues are the effect on the Malvern Hills Area of Outstanding Natural Beauty and on designated heritage assets.

Reasons

4. The appeal site is some 2.45 hectares in extent and is located on the eastern edge of the village of Cradley. The site is comprised of two agricultural fields set outside of, but adjacent to, the settlement boundary for Cradley. The site is within the Malvern Hills Area of Outstanding Natural Beauty (AONB). The boundary of Cradley Conservation Area (CA) adjoins the site, immediately to the west.
5. The site is bordered by mature trees and hedgerows on all sides, apart from the western section of the southern boundary, which extends into an open field to the south of the site. A farm access crosses the site, giving access to Church Stile Farmhouse. The western part of the site is relatively flat, while to the eastern part beyond the access slopes up towards the east.
6. The village of Cradley divides broadly into two parts. The appeal site is located adjacent to the eastern part and close to Cradley Church of England Primary School, Cradley Village Hall. There is existing residential development to the north-west, and farm buildings to the east. The northern boundary is defined

- by Vinesend Lane, beyond which is open orchard land. There is no defined southern boundary and with open fields continuing beyond the application boundary towards Church Stile Farm.
7. There are two Grade II listed buildings in the vicinity of the site. These are Church Stile Farm to the south, and Buryfield Cottage to the north. The Grade II* listed Church of St Peter the Great lies approximately 300 metres to the south-west.
 8. There are two public rights of way in the vicinity of the site. One is public footpath CD36A that crosses the site from the road adjacent to Buryfields in a southerly direction leading towards the Church. This footpath is inset from the western boundary of the site and provides open views of Church Stile Farmhouse and filtered views of the Church and Conservation Area. CD36C passes the eastern end of the site at a higher level, and links back to CD36A to the south of Church Stile Farm.
 9. The application was made in outline, with all matters reserved. The illustrative plan shows a new access road from the north-west corner of the site. The proposed shop and parking area would be located to the west of the access road with a group of 7 houses adjacent to the public footpath. An area of open space described as a village green would be located to the east of the access, with a further group of 22 dwellings beyond. On the rising land to the east a community orchard and vineyard is proposed, with a centrally located flower garden and seating area, incorporating measures to support and enhance biodiversity.
 10. The development plan for the area is the Herefordshire Local Plan Core Strategy 2011 - 2031(CS), adopted October 2015. Policies SS2 and SS3 set out the broad strategy for delivering new homes, and the means of securing sufficient housing land delivery. Policy SS6 is concerned with environmental quality and distinctiveness. It states that development proposals should conserve and enhance those environmental assets that contribute towards the county's distinctiveness, in particular its settlement pattern, landscape, biodiversity and heritage assets and especially those with specific environmental designations. Policy LD1 is concerned with landscape and townscape, and seeks to conserve and enhance the natural, historic and scenic beauty including Areas of Outstanding Natural Beauty. Policy LD4 sets out the Council's approach to the historic environment and heritage assets, and requires that development proposals protect, conserve and where possible enhance heritage assets and their settings in a manner appropriate to their significance.
 11. Cradley and Storridge Neighbourhood Development Plan (CNDP) was subject to a referendum on 13 July 2017. The results of this were positive with 86.6% of those taking part voting in favour of the NP. In line with the Neighbourhood Planning Act 2017, the plan is now afforded full material weight, subject to considerations set out in the Written Ministerial Statement of December 2016 which I address below. The plan defines a settlement boundary which excludes the appeal site. CNDP Policy 1 supports proposals for housing development within the settlement boundary. CNDP Policy 2 states that proposals for housing development adjacent to the settlement boundaries ... which make a positive contribution to their landscape setting will be supported in areas that are defined ... as having a moderate, high or very high capacity to

accommodate development. The policy also refers to rural exception sites and employment.

12. The evidence base for CNDP Policy 2 included a landscape assessment undertaken for the Parish Council, which examined 82 parcels of land in order of their capacity to accommodate development. The appeal site (Parcel 4 in Appendix 5 to the CNDP) was assessed as having a low capacity to accommodate development.
13. The local planning authority accepts that it is unable at present to demonstrate a five year supply of housing land. The most recent assessment dated September 2016 indicates that the supply stands at 4.49 years. In these circumstances policies relevant to the supply of housing are out of date. While the NP is less than two years old it does not make any allocations for housing, so that the provisions of the Written Material Statement dated December 2016 do not apply in this case.

Effect on the AONB

14. Paragraph 116 of the Framework states that 'major' development in the AONB should be refused except in exceptional circumstances, and where it can be demonstrated that they are in the public interest. The Framework does not define what constitutes 'major' development, but the Planning Practice Guidance provides clarification that this is a matter for consideration by the relevant decision taker taking into account the proposal in question and the local context.
15. The main parties referred to a number of appeal decisions where the matter had been at issue, with Inspectors coming to different conclusions as to whether the development under consideration could be considered major, having regard to the size and scale of the development proposed and the particular context of the site under consideration. The Appellant argues that the appeal development constitutes 4% of the existing number of dwellings in Cradley, a proportion which is considerably smaller than some cases where proposals have not been found to constitute major development (e.g. proposal for 30 dwellings at Ampleforth, 7.8% increase; proposal for 24 dwellings at Welland, Worcestershire, 4.9% increase; proposal for 20 dwellings at Mosterton, Dorset, 6.6% increase).
16. Elsewhere a proposal for 14 dwellings at Staunton, representing an 11.48% increase, was held to be 'major' development, as was a proposal for 62 dwellings at Milton-under-Wychwood, representing an 8% increase.
17. To my mind, a development of some 29 dwellings plus a shop represents a major development in the intimate landscape context which is typical of this part of the AONB. While I accept that Cradley is not a small village in the context of eastern Herefordshire I do not consider that a crude assessment based on percentage increase is helpful or relevant. As is evident from the OS map and as recognised by the Appellant, Cradley is not a single, nucleated settlement, and there is a clear separation between the two parts of the village, marked by the valley of Cradley Brook. This eastern part generally has a looser pattern of development, and is for the most part included within Cradley Conservation Area, reflecting its character as the older part of the village. While the appeal site lies outside the conservation area, it is clearly part of its setting and has strong visual relationships with it which I discuss in

more detail below. In this specific context, and having regard to the size and scale of the development proposed, I consider the proposal should be considered a 'major' development.

18. The Appellant considers that the proposed development is well related to the existing built form of the village and forms a logical extension to the village envelope. In fact, though housing on Buryfields touches the north-west corner of the site, the site itself has an open character which relates more to the open AONB countryside than to the developed part of the village, and the influence of development is very limited. I acknowledge there are farm buildings along the eastern boundary, though I consider them to be characteristic of small agricultural holdings, rather than providing a reference for an extension of the settlement boundary. The new school has changed the character of the landscape, though it has little visual influence on the appeal site, the land directly to the north of the site being undeveloped orchard land. The southern boundary is entirely open, as is the land beyond the western boundary. I would therefore describe the site's relationship to the existing village form as tangential rather than a logical extension to the development boundary.
19. Even if it were to be accepted that the proposal does not constitute 'major' development, it would beyond doubt be a significant extension to the built form of the village. Paragraph 115 of the Framework advises that 'great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty.'
20. Although the application is in outline, the indicative layout indicates that a substantial section of hedgerow would need to be removed along the road frontage to achieve access. This would open up views into the site and result in built development being prominent, in place of the open pastoral landscape that currently exists. To my mind it would constitute an incongruous intrusion of built development attractive open countryside of the AONB. The development would also be readily visible from the well-used public footpaths to the east and west of the site.
21. The Appellant's landscape assessment acknowledges that the AONB constitutes a valued landscape in the context of paragraph 109 of the Framework. However it concludes that there is a clear distinction between the wider setting of the AONB and the local context of the appeal site. While I acknowledge that the site is to an extent visually contained by the local topography, I consider it to exhibit a topography and landscape character which is entirely characteristic of much of the AONB, and valuable as such in accordance with the Framework paragraph 109. The AONB extends well beyond the principal ridge of the Malvern Hills, reflecting the intimate pastoral landscape of river and stream valleys, attractive historic villages, woodlands and rolling countryside that forms much of the setting of the Malverns, particularly on the western side.
22. The Appellant acknowledges that the existing trees and hedgerows represent notable habitat, with evidence of badgers, foraging bats and nesting birds, and potential habitat for amphibians, roosting bats, hazel dormice and reptiles recorded in the assessment. This is further convincing evidence of the value of the site, beyond its landscape value. While I accept that the proposal includes significant mitigation to promote biodiversity, the existing acknowledged

wildlife value is a further indication that development should be restricted in this location.

23. I therefore conclude that the proposal would result in substantial harm to the quality and character of the AONB landscape, in clear conflict with CS Policies SS6 and LD1.

Effect on heritage assets

24. There are four designated heritage assets with potential to be affected by the proposal: Church Stile Farm (Grade II listed), the Church of St James (Grade II* listed), Buryfield Cottage (Grade II listed), and Cradley Conservation Area.
25. Church Stile Farm lies to the south of the appeal site, an isolated timber frame farmhouse approached along the existing access track which rises gently towards it. It is accepted that there would be no harm to the fabric of the building, and that harm to the setting would be 'less than substantial' as described in paragraph 134 of the Framework. Nevertheless I consider that the proposal would have a significant adverse effect on the setting of Church Stile Farm, potential retained views being framed by development and considerably diminishing the characteristic sense of an isolated farmstead.
26. I acknowledge that the current access track is not the original access to the Farmhouse, and has been relocated from a position further west. Nevertheless the setting of the listed building is readily appreciable from the footpath network and from the road between the junction of Vinesend Lane with Buryfields.
27. With regard to the setting of St James Church, there are good views of the tower across the valley of the brook from the appeal site. It is suggested that any views would be heavily filtered by existing trees and would not impact on the heritage significance of the asset. To my mind, the open pastoral nature of the landscape to the north-east of the church is an important part of its setting, notwithstanding the filtering effect of trees and vegetation, and contributes to its heritage significance. Setting is not simply a matter of visual relationship. In this case the relationship between the Church and the appeal site can be appreciated from the footpath network and I consider that the rural setting of the Church would be significantly harmed by the development of the appeal site.
28. Similar considerations apply to the setting of the CA, of which the Church forms a principal focus. Harm to the setting is a material consideration as paragraph 132 of the Framework advises. In my opinion the development would cause significant, though still less than substantial harm to the setting of the conservation area.
29. With regard to the effect on Bury Hill Cottage, I accept that the setting is already affected by modern development, and that the development of the appeal site would not entail material harm to the setting.
30. Nevertheless in my judgement the Appellant's assessment significantly underestimates the extent of harm to the other designated heritage assets. I conclude that there would be significant, albeit less than substantial harm to the settings and significance of these, which is to be weighed against the public benefits in accordance with Framework paragraph 134. Considerable importance and weight attaches to any harm to the setting of listed buildings.

Benefits of the scheme

31. The outline proposals make provision for a mix of dwelling types and sizes, including 40% affordable housing. Since the application was determined, the Appellant has committed to increasing the percentage of affordable housing to 45% (11 dwellings).
32. The development would boost the supply of market and affordable housing in Cradley, for which there is a need identified in the CS and the CNDP, in circumstances where the local planning authority cannot currently demonstrate a 5 year supply of housing. Cradley is identified in the CS as one of 10 settlements in the Ledbury area which will be a main focus of proportionate housing development, and is therefore considered suitable for some development in principle. The appeal proposal would provide 45% affordable housing which exceeds the 40% indicative figure in the CS. These matters weigh positively in the balance as contributions to the social dimension of sustainability, though in view of the fact that 21 affordable homes are being provided as part of the 'Pixiefields' development, the extent of identified unmet need in Cradley is only 4 dwellings.
33. The development would contribute positively to the economic dimension of sustainability, through employment and expenditure during the construction period, and through ongoing maintenance and improvement. The additional population would also increase expenditure in the local economy and provide support for local businesses.
34. The proposal for a shop including a farm shop and cafe would no doubt be a welcome addition to the range of facilities available in the village, with economic and social benefits to the community. However, there can be no certainty that such an enterprise would be economically viable in the absence of a business plan. I note there is an existing general store in the western part of Cradley, and it is debatable whether two stores could be supported. In view of this uncertainty, I attach little weight to this as a benefit of the scheme.

Planning Balance

35. The proposal would conflict with the development plan as a whole, being a significant development within the AONB and outside the settlement boundary for Cradley defined in the CNDP. It would result in substantial harm to the landscape setting of the village in the AONB, and significant though less than substantial harm to the setting of designated heritage assets. Insofar as they affect the setting of two important listed buildings, these are matters to which I must give considerable importance and weight.
36. While the Council cannot demonstrate a 5 year supply of housing, and development plan policies for the supply of housing are out of date, the 'tilted balance' described in Framework paragraph 14 does not apply where, as here, paragraphs 134 and 115 of the Framework indicate that development should be restricted. Accordingly the applicable test is the simple balance of whether there are material considerations which outweigh conflict with the development plan and any other harm.
37. With regard to the settlement boundary and related policies in the CDNP the weight to be attached is a matter for the decision maker. In this case, I consider that the definition of the settlement boundary in the vicinity of the

appeal site is a justifiable reflection of the high value placed on the landscape quality of the appeal site, its contribution to the AONB and the settings of the listed buildings and conservation area. It is also relevant that Cradley lies within the Ledbury rural housing market area, where the CS envisages an indicative 14% growth in housing over the plan period. This would amount to some 103 dwellings for Cradley. At 1st April 2016 it is reported that 19 dwellings had been completed since 2011 with further commitments totalling 78, including the Pixielands site which has outline planning permission. Sites for some 97 dwellings have accordingly been identified, leaving a residual balance of 6 dwellings still to be found. Accordingly, I consider that the housing needs identified for Cradley are substantially being met through the development plan process, and attach considerable weight to the definition of the settlement boundary in this part of Cradley, and the related Policies CNDP 1 and CNDP 2.

38. I accept that there would be moderate social benefits through the provision of market and affordable housing. I also acknowledge that the design of the development could be attractive in its own right if the effects on the AONB and heritage assets are left out of account. The scheme would also include open space and biodiversity enhancement which could potentially benefit the wider community, though much of this is necessary to mitigate the effects of the development itself and accordingly should not be regarded as a significant benefit. There is no certainty that a shop/café on the site would be economically viable, and accordingly I give this little weight.
39. I have taken into account the local support for the scheme but also note that of those who voted in the CNDP referendum some 86% supported the plan as presented, which shows the appeal site outside the settlement boundary.
40. In my judgement, the development would constitute 'major' development in the AONB, to which paragraph 116 of the Framework is applicable, for the reasons set out above. The public interest benefits of the scheme put forward by the Appellant fall well short of the exceptional circumstances needed to meet the test. However, even if the development is assessed in the context of paragraph 115, the moderate social and economic benefits do not outweigh the significant environmental harm to the AONB, nor the harm to heritage assets, and the conflict with the development plan as a whole. Accordingly, I conclude that the appeal should be dismissed.

David Richards

INSPECTOR