



Appeal Decision

Hearing held on 8 July 2015

Site visit made on 8 July 2015

by Nicholas Taylor BA (Hons) MRTPI

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

Decision date: 26 August 2015

Appeal Ref: APP/W1850/W/15/3002571

Land West of Upper Court Road, Bosbury, Herefordshire

- 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 The Church Commissioners for England against the decision of Herefordshire Council.
 - The application Ref P141550/O, dated 28 May 2014, was refused by notice dated 19 November 2014.
 - The development proposed is up to 46 dwellings, a new access from Upper Court Road, together with open space, parking and associated infrastructure.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application is submitted in outline, with all matters except for access reserved for future determination. It was accompanied by a number of plans and a detailed Design and Access Statement. One of the drawings, an Indicative Masterplan, was the subject of much discussion at the hearing. However, it was not suggested to me that its status was anything more than indicative and I have determined the appeal on that basis.
3. The Council's original second reason for refusal concerned the absence of a Section 106 agreement. At the hearing, the main parties confirmed that they had reached agreement on this issue. However, the signed but undated agreement before me required further amendment in the light of my questions regarding compliance with the CIL Regulations with respect to pooled contributions to infrastructure. At the request of the main parties, I agreed to allow a further opportunity, after the closure of the hearing, for a revised agreement to be provided, which has been submitted. Exceptionally, I also allowed a similar opportunity, not followed up, for the appellant to provide factual information regarding public access to the church tower. I am satisfied that no party was disadvantaged by those concessions.

Main Issues

4. In the light of the above and the written and oral evidence, I consider the main issues in this case to be whether the benefits of the proposed development would be significantly and demonstrably outweighed by any harm arising from its effect on the character, appearance and setting of the village and, in

particular, whether the character and appearance of the Bosbury Conservation Area would be preserved or enhanced and whether the settings of listed buildings and ancient monuments would be preserved.

Reasons

5. Bosbury is a substantial village, astride the B4220 road, set within open countryside in a rural area. Part of the village lies within a conservation area and it contains a significant number of listed buildings. The appeal site comprises part of a field, in agricultural use, on the southern edge of the village, adjoining the settlement and conservation area boundaries. Access would be taken from an existing cul-de-sac, Upper Court Road, which is part of the 1970's Forge Bank housing development at the eastern end of the village.

Planning policy

6. It is agreed that the Council cannot at present demonstrate a five year supply of deliverable housing sites. Paragraph 47 of the *National Planning Policy Framework* (the Framework) says that local planning authorities should boost significantly the supply of housing. Paragraph 49 states that housing applications should be considered in the context of the presumption in favour of sustainable development and, where a five year supply of deliverable housing sites cannot be demonstrated, relevant policies for the supply of housing should not be considered up to date. As a consequence, the Council has adopted an interim protocol in recognition that Saved Policies H4 and H7 of the *Hereford Unitary Development Plan* (UDP) are not up to date. The Council's approach is that appropriate residential development, outside but adjacent to the defined boundaries of the main settlements defined by Policy H4, may be permitted in order to help address the housing shortfall, provided that other material considerations do not indicate otherwise.
7. That approach is consistent with the overall approach of the Framework, paragraph 14 of which describes the presumption in favour of sustainable development at its heart. It goes on to state that, where the development plan is absent, silent or relevant policies are out of date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole, or specific Framework policies indicate that development should be restricted. A number of Framework policies, notably regarding heritage and design, are relevant to the main issue.
8. Other relevant UDP policies cited by the Council, which are not primarily concerned with the supply of housing, include DR1, which sets out a number of design objectives, H13, concerning sustainable residential design and high quality living environments, and LA3, which seeks to protect the landscape setting of settlements. Policy DR5 seeks planning obligations where necessary to achieve community, transport and environmental benefits.
9. I agree with the appellant that Policies HBA4 and HBA6, concerning the setting of listed buildings and development within conservation areas respectively, are not entirely consistent with the Framework. Their approach is less nuanced than the Framework, in that they do not explicitly provide for assessment of harm in relation to the significance of a heritage asset, incorporate the concept of substantial and less than substantial harm or allow for public benefits and other considerations to be weighed in the planning balance. Nevertheless,

whilst the Framework is more up to date, the general thrust of those policies is similar to that of the Framework, which provides that great weight should be given to the conservation of designated heritage assets.

10. Moreover, Sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 require the decision maker to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural interest which it possesses. Section 72 of the Act requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of a conservation area. The courts have established that these duties should be given considerable importance and weight.
11. The appellant also contends that, as a matter of law, Policy HBA6 is not relevant because it clearly relates to development within but not merely adjacent to a conservation area. The western boundary of the site abuts Mill Lane. A plan which may have been definitive at the time of the conservation area's designation in 1976, clearly shows its boundary running slightly to the east of Mill Lane for part of its length. Another plan produced by the Council shows the boundary running very slightly to the east of the lane, as does Inset Map 5 of the UDP. It was agreed at the hearing that the "1976 plan" ought to provide the best definition of the boundary but there was much debate about whether the boundary, as drawn, was accurate and intentional. Unfortunately, there are no formal designation or appraisal documents to cast any further light on this matter.
12. Whilst it is generally accepted that, wherever practicable, the boundaries of such designations should follow firm geographical features, there may sometimes be good reasons otherwise. Allowing for the 1976 boundary being hand-drawn, it shows several other most probably deliberate deviations from field or property boundaries and it is roughly consistent with the two later plans. The contested section of boundary aligns approximately with the definitive footpath running along the western edge of the field, on the eastern side of the hedgerow.
13. Thus, there is no convincing evidence that part of the appeal site, albeit a very thin strip, is not physically within the conservation area. Whilst the Council acknowledges the limited extent of the area, third parties strongly hold that it is, legally, significant. My finding that part of the site is, as a matter of fact, within the conservation area engages s72 of the Act, the relevant policies within the Framework and, to the extent that it is consistent with the Framework, Policy HBA6.
14. Paragraph 216 of the Framework provides that appropriate weight can be given to the relevant policies in emerging plans. In this case, following examination hearings and public consultation on proposed main modifications, a further period of public consultation on the *Herefordshire Local Plan Core Strategy (CS)* has been undertaken. As yet, therefore, the Inspector's report has not been published. In the circumstances, in the light of paragraphs 49 and 216 of the Framework, and as agreed by the main parties, I consider that Policy RA2 of the CS, which addresses housing in rural settlements, can be afforded only limited weight at the present time.
15. The policy could, nevertheless, be said to indicate the Council's direction of travel, which is that Bosbury is one of a number of rural settlements identified

as a main focus for sustainable, proportionate housing development. It proposes a minimum growth target for each Housing Market Area, with Neighbourhood Development Plans (NDP) allocating land or otherwise demonstrating delivery of housing targets. Under the policy, housing proposals will be permitted subject to a number of criteria, including that it should reflect the size, role and function of each settlement and be located within or adjacent to the main built up area, preferably on brownfield land, resulting in high quality development reflecting local need and demand.

16. The Bosbury NDP has completed the 'Regulation 16' stage of formal consultation by the local planning authority but has not yet proceeded to Examination. The appellant has objected to the plan as it stands. Moreover, a Council officer view from a planning policy perspective, put to me at the hearing, is that the emerging NDP does not conform entirely with the strategic policies of the emerging CS, specifically in terms of its highly cautious approach to allocation of housing sites and to development adjacent to the settlement boundary. The appellant argues that the minimum indicative housing number for Bosbury arising from the proposed main modification to CS Policy RA2 exceeds the likely capacity of the NDP's approach to meeting future requirements, particularly if areas subject to flood risk are discounted.
17. The Parish Council points out that the emerging CS does not require the NDP to specifically allocate sites for all future housing development, the NDP supports proportionate and sustainable growth, proposes a modest enlargement of the settlement boundary and that, whilst relatively few dwellings are specified due to environmental, heritage and other constraints, it does not place a cap on the number of new dwellings. The NDP does, however, specifically identify the appeal site as important to the heritage, character, landscape and environment of the village and Policy 6 excludes it from the general acceptance of appropriate, small scale development within the settlement boundary. Whilst it is not the role of a planning appeal such as this to pass judgement on the emerging NDP, it is clear that there are significant issues to be addressed during its examination. In the light of paragraph 216 of the Framework, and arguably paragraph 49, it would be inappropriate in all the circumstances for me to attach significant weight to the relevant policies of the NDP in this case.
18. I note that the Council's Strategic Housing Land Availability Assessment (SHLAA) considered the appeal site to have constraints due to its size and relationship with the settlement pattern, if developed in totality, and limited access. This is a material consideration but does not constitute planning policy.

Benefits of the proposal

19. The principal public benefit of the proposed development would be the provision of a significant number of new dwellings, of which 16 would be affordable, with tenure divided in accordance with the Council's requirements. Those dwellings could be brought forward fairly quickly and would make a valuable contribution to housing land supply, which currently amounts to well short of five years, and to affordable housing, provision of which is also running behind needs. The scheme would at a stroke satisfy and indeed exceed the minimum requirement proposed for Bosbury in the emerging CS. Those benefits would be very significant in the context of the Framework and, to the limited extent that weight can be attributed to it, the emerging CS.

20. Although a number of third parties argue that the proposal would strain local infrastructure, the Council does not support that view, provided that appropriate mitigation and contributions are in place. It is reasonable to assume that the resultant increase in population would help to sustain local services and facilities but, equally, I was given no evidence to suggest that, without the proposed development, local services would not be viable or would be under threat. Provision of construction jobs would be temporary and not necessarily of great benefit to local people. Consequently, I attach limited positive weight to the impact on local services.
21. The appellant also argues that the scheme would provide various other benefits. Pedestrian connectivity between Forge Bank and the centre of the village and the primary school would be improved but the gain in length and quality of route would be modest. A small water detention pond within the site could provide further modest gains in amenity and biodiversity and a small open space and equipped play area would provide an additional community facility but the wider benefit would be offset by the increased need generated by the development. A contribution to unspecified local transport measures might include speed management. All in all these additional benefits are very modest. The proposed financial contributions or other arrangements with regard to local education provision, transport initiatives, open space, sports facilities, the attenuation pond and waste and recycling are calculated to meet additional needs generated by the development. To be taken into account they should be fairly and reasonably related in scale and kind to the development and necessary for it to be acceptable, and so should not carry significant weight as public benefits of this scheme. Financial receipts from taxation have not been demonstrated to constitute strong planning benefits in this case.

Character, appearance and setting of the village

22. I begin by assessing the village's character, appearance and setting in a general sense, as distinct from the special significance of the conservation area and listed buildings as designated heritage assets. The village has a compact, predominantly linear form, with very distinctive historic and modern infill development along both sides of Main Street, the B4220. However, it also has, towards its western end, a significant north-south axis along the lane entering from the north, creating a clear historic, visual and functional focal point at the cross roads adjacent to which stand Holy Trinity church, its detached bell tower and a cluster of other listed buildings and structures. The settlement's historic core remains readily discernible, despite the relatively modern Forge Bank development at its eastern end.
23. At the narrow "waist" of the village, between The Cross and Forge Bank, the houses along the south side of Main Street have relatively shallow plots backing onto the appeal site, so that the field appears as a "bite" out of the plan form of the village. I agree with the assessment, articulated by the Council, Parish Council (including within the emerging NDP), English Heritage and other third parties, that the field in such close proximity to the centre of the village forms a distinct aspect of its physical character, reinforcing its shape and comprising part of its countryside setting.
24. The appeal scheme would occupy the "bite", resulting in the loss of a large part of the field to built development. I accept that the extent of built development, excluding the attenuation pond and open space, shown in the Indicative

Masterplan would effectively round off the form of the village on its southern side. I also acknowledge that the indicative layout reflects a considered analysis of the village morphology and attempts to complement its linear form but, as layout and design are reserved matters, it carries limited weight in that regard. The scheme would still represent a significant incursion into open countryside and increase in size of the village (estimated at 40% in terms of number of dwellings). Designing in detail a development of such size so that it would blend sympathetically with the heterogeneous character of the village would present a considerable challenge.

25. During the accompanied and unaccompanied parts of my site visit, I viewed the village from various places, including a public footpath off Brook Lane in an elevated location in the north and from Southfield Lane in the south east. I also viewed the site from its south eastern corner, where third parties say there are informal footpaths through the fields. The landscape around the village is gently undulating, generally sloping from higher land to the north within more distant surrounding hills. The appeal site itself has a gentle slope from a high point at its eastern end towards Mill Lane. In such a setting, with many mature trees in and around the village, its overall form is not highly distinctive in long views, with the bell tower being the main distinctive feature discernible among a cluster of rooftops. My observations tend to confirm the appellant's assessment that the development would not obstruct longer distance views of the bell tower, provided that buildings would avoid the highest part of the site and be restricted to two storeys in height. Consequently, longer views into the village would not be unduly harmed.
26. The view of the village from the south, along the footpath beside Mill Lane, would, however, be significantly altered. Although it does not include the church and bell tower, there are several listed houses within the view. This is not a grand view, containing as it also does a clutter of domestic outbuildings and some unexceptional modern buildings, but it conveys the close relationship between village and agriculture and the "thinness" of the place, as the Council refers to it. The visual experience of users of the footpath would be completely altered, as they would find themselves in an enclosed space, between the hedge and new houses, rather than alongside an open field, as now.
27. Overall, the extent and position of the proposed development would erode the distinctiveness of the character, appearance, form and scale of the village and its setting and context. Consequently, there would be conflict with aspects of several UDP policies, particularly parts 1, 2 and 3 of Policy DR1, which seek to promote distinctive character and appearance, retain site features contributing to the quality of the local environment and respect the context of the site. The scheme would also conflict with part 1 of Policy H13, which expresses similar objectives with regard to townscape and landscape context and distinctive character, and with Policy LA3, which seeks to protect the landscape setting of settlements.

Character and appearance and significance of the conservation area

28. I turn next to the significance of the conservation area as a heritage asset and the impact of the proposed development upon it. I shall also deal with views out of the village in that context.
29. The conservation area encompasses the western part of the village but excludes the eastern, generally more modern part. It also encompasses a

significant area of largely open countryside further west, including Temple Court, a farm on the site of a property of the Knights Templar. The part of the village within the conservation area is centred on the church and its environs, including the section of Main Street containing the majority of historic buildings. On the northern side of the village the cluster of historic buildings and structures comprising Old Court Farm and the remains of the Bishop's Palace (or perhaps, more accurately, manor house) are within the conservation area. On the south, the boundary extends beyond the built-up area of the village to include the school playing field. As I have established, a thin strip of the western side of the appeal site is within the area but the majority is just outside the boundary.

30. It is clear that the conservation area possesses considerable historic significance, derived in large part from the cluster of important medieval, ecclesiastical buildings and remains, in part from the significant number of other listed buildings and structures and in part from its form, layout and setting. English Heritage¹ (EH) refers in its objection to the significance of the linear medieval form of the village but this was a matter of considerable debate at the hearing. The firm evidence suggests that the medieval village (if defined as up to the end of the 15th Century) was not particularly linear but focussed on the church and other ecclesiastical and related buildings.
31. Nevertheless, although there is a distinct difference between the sizes and shapes of domestic plots west and east of the central crossroads, the RCHM 1932 map, reproduced by the appellant, clearly includes the properties at and immediately east of the crossroads, including those adjoining the appeal site, within "post medieval Bosbury". There was general agreement at the hearing that the extent of the village on that map may represent its medieval origins, even if many of the buildings existing today date from around the 17th and 18th Centuries. The shape of the village clearly demonstrates its historic evolution, from before the Reformation to the early 20th Century, from important medieval place to an agrarian settlement of modest status.
32. What is not in doubt is that, whatever the precise extent and form of the village at any given time, the site has always been a field on the edge of the village and reflected the juxtaposition of settlement and fields. The longevity of this spatial relationship imbues the site with some, albeit moderate, intrinsic historic interest, perhaps consciously reflected in most of it not being included within the conservation area boundary. However, it contributes to the setting and, therefore, overall significance of the conservation area as a heritage asset.
33. Viewed from Main Street, the varied, mainly 'black and white' building frontage along its south side is a very fine and complete ensemble. Combined with the opposing church, bell tower, graveyard and Dog Farmhouse, the "villagescape" quality of the composition is elevated still further. The sheer number and preponderance of listed buildings and structures in close proximity is impressive. I see no reason to disagree with the Council conservation adviser's assessment that, as an example of a rural village, it is of exceptional quality in a Herefordshire context and has notable significance at national level.
34. The central crossroads provides a key spatial component of that significance. Whilst attention is inevitably drawn to the buildings and their spatial

¹ Now Historic England for the purposes of advice and expertise on such matters

relationship with the roads and the church / graveyard group, the eye is also drawn to the narrow gap between the buildings on the south side, offering a view of the open countryside (in effect across the appeal site) and the distant hills beyond. The narrowness of the gap restricts the scope of the view but enhances the element of contrast and surprise. Public views are experienced from a number of positions: at the crossroads, from within the graveyard and along the lane entering from the north. Being the hub of the village, this is a place where people will pass or linger on foot (it is also on the route of the Herefordshire Way long distance path), enabling the view to be appreciated. Its value may lie mainly in enabling appreciation of the juxtaposition of village and countryside, rather than in any dramatic landscape feature of particular merit, but it has strong aesthetic value and so contributes to the overall significance of the conservation area.

35. It is also possible to glimpse open countryside through intermittent gaps between buildings on the south side of Main Street. However, as the gaps are narrow and partly obstructed by domestic outbuildings and planting within gardens, these views are very limited and offer mainly a sense of an absence of any buildings beyond the frontage properties rather than clear views of the landscape beyond. Accordingly, they make a material but limited contribution to the significance of the conservation area.
36. Addressing the impact of the proposed development, the concept of a conservation area's setting is not recognised in the Planning (Listed Buildings and Conservation Areas) Act but it is a legitimate policy consideration, incorporated in the Framework and the development plan. Just as the development would alter the plan form of the village and the spatial relationship between its built-up area and adjacent open countryside, so it would affect the setting of the conservation area. Even though mainly outside the conservation area, the scheme would thereby alter its medieval and, even more clearly, its significantly intact post-medieval form. The appellant argues that this would simply be continued evolution reflecting contemporary levels of prosperity, but that could be said of any development, however harmful. Such a change would be irreversible and would entail some loss of the conservation area's historic significance. The severity of that loss would be moderately adverse but less than substantial in terms of the Framework meaning.
37. Within the thin strip of the appeal site within the conservation area boundary, the masterplan indicates that the existing hedgerow could be retained, helping to limit the impact of the development on Mill Lane and on views out of the conservation area from the school and its playing field. However, I have found that the view and visual experience from the footpath on its eastern side, on the boundary of the area, would be radically altered. The contribution of that view to the significance of the heritage asset may not be critical but it is not unimportant. Consequently, the harm to the conservation in that respect would also be moderately adverse but less than substantial.
38. Notwithstanding any dispute about the accuracy of the appellant's photo-montages, which in any case must be treated with circumspection at outline stage, it is clear that the view out of the conservation area southwards through the gap at the crossroads would be closed-off by development. Even though there may be some scope at reserved matters stage to devise a detailed layout, incorporating careful positioning of buildings and landscaping, which could soften the impact as much as possible, the view and the relationship

between village and setting would inevitably be compromised. It would no longer be possible to visually appreciate the “thinness” of the place. Although intermittent glimpses of the proposed development through the other limited gaps on the south side of Main Street would not significantly erode the visual character and appearance of the conservation area, the effect on the gap at the crossroads, as it is so central and pivotal, would be significant, although the harm would be less than substantial.

39. In the light of paragraph 013 of Planning Practice Guidance (PPG), account must be taken of the varying significance and impacts regarding historic form, setting, and views into and out of the conservation area. Overall, taking a holistic view and recognising that new development need not inevitably be inappropriate, I conclude that the proposal would cause moderately adverse, though less than substantial, harm to the conservation area. Notwithstanding the very small part of the site within the conservation area, I must conclude that its character and appearance would not be preserved, in conflict with the Act. On the face of it, there would also be conflict with the Framework although, as the harm would be less than substantial, paragraph 134 requires that it is weighed against the proposal’s public benefits, which I conclude upon below. To the extent that its objectives are consistent with the Framework, the scheme would also conflict with UDP Policy HBA6.

The setting of listed buildings

40. A number of the village’s listed buildings are in close proximity to the site. Among the most notable, the church and its bell tower are listed Grade I. In addition to their intrinsically high historic and aesthetic value, they have a close historic relationship with the former Bishop’s Palace and Temple Court and both a historic and physical relationship with the village itself and its surroundings. A number of monuments within the churchyard are also listed, together with the adjacent Grammar School, further signifying the group’s high heritage significance.
41. The group’s physical inter-relationship is most clearly experienced within the village centre, where the nearby buildings, many of which are also listed, form an immediate setting which could hardly be called isolated from the village. In the same way that glimpses of open countryside from the crossroads and the graveyard contribute to the significance of the conservation area, they also contribute to the setting of the church and tower. Although a clear view of the spatial relationship between the village and the appeal site is possible from the top of the tower, I have not been provided with clear evidence that it is normally available to the public.
42. The bell tower is visible from much of the appeal site but not readily so from most of the public footpath along its western edge. My attention was drawn to other, informal footpaths but the evidence does not clearly indicate that the appeal scheme would seriously disrupt significant views of the tower from public places. As noted, it is distinguishable in longer views of the village but provided new development was restricted in height, harm to the tower’s wider setting would not be serious. All in all, whilst the immediate setting of both Grade I buildings and the graveyard group would not be considerably altered, their wider setting, as integral and symbolic parts of the village – countryside relationship, would be altered to a limited degree. Thus the impact on their

- significance as heritage assets would be slightly adverse and less than substantial.
43. Further Grade II listed buildings are clustered around the cross roads and what the Council refers to as the eastern gateway. These include, on the south side, The Cross adjoining the Bell Inn to the west of Mill Lane and more cottages, The Cross (1 and 2 Main Street) to its east. The north east corner is occupied by Dog Farmhouse. These buildings variously date from the 15th to 18th Centuries with later alterations and form an important group. In totality, their physical and visual inter-relationship is mainly inwardly focussed around the street frontages. But, as with the conservation area, the gap with its open view between The Cross and The Cross (1 and 2 Main Street) is integral to and makes a significant contribution to the setting of those two buildings in particular. Although those buildings would continue to frame the route out of the village to the south, that route would no longer plunge immediately into countryside but would be dominated by the proposed development, which would envelop the rear of the buildings. The setting of both buildings at the rear may not be spectacular but is positive and the proposed development would erode its quality. The harm to their significance would be moderately adverse, though not substantial.
44. Further Grade II listed buildings on the south side of Main Street, Old Cottage and Karsland (or Kingsland) House and Stores Cottage, border the appeal site. Both are assessed as being essentially 18th century dwellings. They are fairly modest in character, scale and form, 'black and white' cottages possessing aesthetic and historic value. They are identified also as having group value, albeit a modern dwelling has been built between them. I accept that no strong functional link between the buildings and the appeal site - in the same way that, for example, a farm house or barn might have - has been demonstrated. Moreover, their principal spatial relationship is with Main Street. However, I am not persuaded by the appellant's argument that very little of their significance derives from their setting between Main Street and the appeal site, overlooking fields to the rear, representing their humble role in the village's agrarian heritage. Moreover, although the normal domestic clutter of garden planting, boundaries, extensions and outbuildings does not enhance the visibility of the buildings from the appeal site and the public footpath along its edge, it does not prevent appreciation of the importance of the field-side setting to their significance. That part of their setting would be radically altered, completely dominated by new housing. Taking the group comprising The Cross (1 and 2 Main Street), Old Cottage and Karsland House and Stores Cottage as a whole, whilst I assess the harm to each building in isolation as moderately adverse, they are all seen together from and across the appeal site and, consequently, the harm to their common setting would be considerable, albeit less than substantial.
45. All in all, therefore, following the approach in paragraph 013 of PPG, there would be slight to moderately adverse impact on the settings of a considerable number of listed buildings which are important individually and collectively. Their settings would not, therefore, be preserved, contrary to the expectations of the relevant Act. Again, there would, on the face of it, be conflict with the Framework, although, as the harm would be less than substantial, subject to weight against the public benefits. And, to the extent that its objectives are consistent with the Framework, there would be conflict with UDP Policy HBA4.

Overall planning balance and conclusion on the main issues

46. In the absence of a five year housing land supply, in accordance with the Framework, the proposal should be considered in the light of the presumption in favour of sustainable development and relevant policies for the supply of housing should be considered out of date. The Council's interim protocol, although not a development plan policy as such, indicates that, in the circumstances, an edge of settlement scheme may be permitted in order to help address the housing shortfall, provided that other material considerations do not indicate otherwise. The proposal would meet and exceed the housing expectation of CS Policy RA2 for the settlement, which is identified as a focus for proportionate housing growth, but would not satisfy all the policy's qualitative criteria. Thus, even if the emerging policy carried significant weight, it would be neutral in this case.
47. Overall, principally in the context of the Framework, significant weight should be attached to the scheme's contribution to housing supply, including provision of affordable housing, to meet the needs of the settlement and the HMA. Other benefits, including non-specific support for the sustainability of rural services, add a further limited amount of positive weight.
48. However, weighing other material considerations in the balance, aside from the specific impact on designated heritage assets, the proposal would harm the character, appearance and setting of the village, contrary to development plan policies which are up to date and consistent with the Framework and should be afforded full weight. It would also conflict with the emerging NDP, although only limited weight can currently be given to that.
49. The appellant's detailed and considered heritage evidence acknowledges that the significance of the affected heritage assets is high and that there would be some impact, albeit negligible or slightly adverse. However, keeping in mind that this is an outline application with all matters except access reserved, I disagree about the severity of harm and its cumulative impact. Given that most of the site is adjacent to the conservation area and a small part within it, there would be harm both to the area itself and to its setting. Thus, the character and appearance of the conservation area would not be preserved and its significance as a designated heritage asset would be harmed. Whilst the harm would, in the Framework's terms, be less than substantial, there would nevertheless be conflict with the Framework and the relevant Act. Conflict with the relevant development plan policy should also be noted, although afforded limited weight due to its lack of complete consistency with the Framework.
50. I have also identified harm to the settings of a considerable number of listed buildings. The importance of those buildings varies, as does the degree of harm. However, the number of buildings, their spatial inter-relatedness within the core of the village and their combined value increases the cumulative harm. The harm to each designated heritage asset may be less than substantial in terms of the Framework but that does not make it unimportant. Indeed, the Act, in particular, imposes a strong presumption in favour of preservation. The conflict in this respect is with the Act, the Framework and, albeit subject to reduced weight, the development plan.
51. Paragraph 132 of the Framework makes clear that heritage assets are irreplaceable and any harm or loss requires clear and convincing justification. The cumulative harm to designated heritage assets would be significant and

serious, although less than substantial in Framework terms, requiring the harm to be weighed against the scheme's public benefits. The Act, however, requires very great importance and weight to be attached to such harm. Consequently, the benefits in this case, although considerable in total, are insufficient to outweigh the irreversible and serious cumulative harm to designated heritage assets. Furthermore, the combined harm to designated heritage assets added to that to the general character, appearance and setting of the village would significantly and demonstrably outweigh the benefits of the scheme, having regard to the development plan and the Framework overall, indicating that it would not represent sustainable development.

Other Matters

52. The final version of the s106 Agreement is dated and signed by the appellant and the Council. It provides for affordable housing within the development and financial contributions towards local education provision, transport initiatives, sports facilities, public open space and waste and recycling. The implications of the agreement were aired at the hearing and I have considered the potential benefits of the scheme in my reasoning. However, as I am dismissing the appeal on the main issue, it is not necessary to reach a conclusion on the acceptability of the agreement with respect to the statutory tests in the CIL Regulations and the Framework.
53. Third parties object to the amount of development which would be accessed from Upper Court Road. The Forge Bank estate does not have generous parking provision. Some existing dwellings in the short street have no on-site parking provision and existing residents will be accustomed to limited passing traffic. However, the Highway Authority considers that the proposed access arrangements would be satisfactory for the number of proposed dwellings. I have not been given strong evidence to show that the scheme would pose any significant risk to highway safety or that the impact on existing residents would amount to a reason to refuse the application.
54. There are a number of other objections raised by third parties but they have not been included among the Council's reasons for refusal and so, as I am dismissing the appeal with respect to the main issue, it is not necessary for me to reach a firm conclusion on those matters.

Conclusion

55. In the light of all that I have read, seen and heard, for the reasons set out above, the appeal should be dismissed.

Nicholas Taylor

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Douglas Edwards QC	Of Counsel
Ben Simpson	Carter Jonas
Michael Dawson	CGMS

FOR THE LOCAL PLANNING AUTHORITY:

Andrew Banks	Planning Officer
Robert Walker	Heritage Adviser

INTERESTED PERSONS:

Matt Hosking	Chair of Bosbury Neighbourhood Plan Committee
Patrick Whitehead	Chair of Bosbury Coddington Parish Council Planning Committee
Robert Eaton	Resident
Colin Clark	Resident
R Preece	Resident

DOCUMENTS SUBMITTED AT OR AFTER THE HEARING

Completed Section 106 Agreement

Internal Council email concerning the NDP

Index of Principal Buildings (heritage assets)

The Council's assessment of the appellant's Planning Obligation by Unilateral Undertaking

Herefordshire Council *Planning Obligations SPD*