



Appeal Decision

Hearing held on 15 and 16 November 2023

Site visit made on 14 and 16 November 2023

by Paul Thompson DipTRP MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 February 2024

Appeal Ref: APP/P1805/W/23/3325834

Land at Intall Fields Farm, South of Stoke Pound Lane, Stoke Prior, Bromsgrove B60 4LE

- 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 Mr Brynley Little (Your Land Partner Ltd) against the decision of Bromsgrove District Council.
 - The application Ref 22/01066/OUT, dated 2 August 2022, was refused by notice dated 10 February 2023.
 - The development proposed is the erection of 78 new dwellings and a flexible commercial/community use building with associated access, infrastructure, landscaping, and open space provision; considering access into the site only and with all other matters reserved, at Land South of Stoke Pound Lane, Stoke Prior, Bromsgrove.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs has been made by Mr Brynley Little (Your Land Partner Ltd) against Bromsgrove District Council and is subject of a separate Decision.

Procedural Matters

3. The planning application was submitted in outline with all matters reserved except for access. I have had regard to the application drawings, including the location, proposed parameter plan and the new habitat map (Drawing Refs: 1374 SAP XX XX DR A 00000 SO Revision 01, 1374 SAP XX XX DR A 10103 SO Revision 03, and 438 XX XX DR L 1001) but have treated each element of the drawings as indicative, apart from the details of the accesses, when considering the likely impact of the proposal on the matters set out in the main issues.
4. On 19 December 2023 the Government published a revised National Planning Policy Framework (the Framework). The main parties were invited to produce a Statement of Common Ground (Framework SoCG) regarding any of its relevant revised content and I have had regard to this in my decision.
5. At the Hearing, the Council confirmed it would not be pursuing the reason for refusal recommended by the Local Highway Authority, Worcester County Council, regarding the potential absence of a financial contribution to cover travel from the site to the High Schools. I have had regard to the merits of the contribution in my consideration of the benefits associated with the proposal.

Main Issues

6. The overall Statement of Common Ground for the appeal¹ (SoCG) states the part of the proposal on previously developed land in the northwest corner of the site would not amount to inappropriate development in the Green Belt, whereas the remainder would. While the main parties indicated at the Hearing this matter should be considered holistically, it is necessary for me to reach a finding on the openness of the Green Belt for the larger part of the site. Accordingly, the main issues include consideration of both matters.
7. Based on the content of the second reason for refusal on the Decision Notice, and the Council's Statement of Case, I have adjudged its areas of concern to be primarily focused on the character and appearance of the site and its surroundings, including the countryside setting of Stoke Prior. Hence, I have not found in relation to Policy BDP2 of the Bromsgrove District Plan 2011-2030² (BDP), as it refers to the location of development with regard to the Council's Settlement Hierarchy. This did constitute part of the Council's Hearing case and there are numerous points of agreement in paragraphs 2.99-2.116 of the SoCG regarding that issue. Furthermore, at the Hearing, the Council accepted that paragraph 2.51 of SoCG contradicts the reason for refusal. However, effects to the setting of the countryside are only one part of the reason, and I am mindful interested parties have raised concerns relevant to such matters.
8. Considering the above, the main issues are:
 - whether the proposal would amount to inappropriate development in the Green Belt;
 - the effect of the proposal on the purposes of including land within the Green Belt;
 - the effect of the proposal on the openness of the Green Belt;
 - the effect of the proposal on the character and appearance of the site and its surroundings, including the countryside setting of Stoke Prior;
 - whether the proposal would preserve the setting of the Grade I listed building, known as the 'Church of St Michael'; three Grade II listed buildings, known as 'Little Intall Fields Farmhouse', 'Lych Gate' and 'Stoke Prior War Memorial'; its effect on the setting of the Worcester and Birmingham Canal Conservation Area, and several Non-Designated Heritage Assets known as Intall Fields Farm, Bridge 45 and Locks 24-26 on the Worcester and Birmingham Canal, The Mount, The Navigation Inn and Navigation Row Cottages, and 116-120 and 124 Hanbury Road;
 - the effect of the proposal on the use of best and most versatile agricultural land; and
 - whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

¹ Dated June 2023, but signed on 8 November 2023.

² Adopted January 2017.

Reasons

Inappropriate Development

9. The Framework sets out the Government's planning policies for England and is an important material consideration in all planning decisions. It states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The Framework is the most up to date expression of national policy on development in the Green Belt. At the local level, BDP Policy BDP4 includes exceptions close to the wording of Framework paragraph 154 and further detail on how they should be interpreted in a local context.
10. The main parties agree that development of most of the site, excluding land within the northwest corner of the site occupied by buildings, would amount to inappropriate development in the Green Belt. I am referred to the exception at Framework paragraph 154(g) which refers to 'limited infilling or the partial or complete redevelopment of previously developed land'. A small part of the land north of the buildings in that part of the site is agreed by the main parties to be previously developed land. In such circumstances, the exception applies where development would not have a greater impact on the openness of the Green Belt than that existing. Such impacts to the remainder of the site are dealt with in the third main issue, but for clarity I deal with the previously developed land here. Moreover, the finding regarding whether its redevelopment would amount to inappropriate development requires such an assessment be made.
11. At the time of my visit, the previously developed part of the site was occupied by several containers close to Stoke Pound Lane. It is intended for five custom build housing plots, accessed from Stoke Pound Lane. The indicative layout demonstrates it would be possible for development in that part of the site to not have a greater impact on the openness of the Green Belt than the existing development, including through landscaping. Hence, that part of the proposal would not be inappropriate development.
12. I conclude that, the aspect of the proposal within the small proportion of land in the site's northwest corner at its frontage with Stoke Pound Lane would not be inappropriate development in the Green Belt in accordance with the above local and national policies. Conversely, the remainder of the proposal would be inappropriate development in the Green Belt, contrary to those policies.

Site and Surroundings

13. Stoke Prior is a settlement formed of two distinct concentrations of homes to the east off Hanbury Road and to the west off Shaw Lane, separated by fields but joined at their southern extents by a large employment area either side of the Worcester to Birmingham Canal. This includes further homes referred to in the fifth main issue and at the former Polymer Latex site at Westonhall Road.
14. The appeal site is a large agricultural field elevated above the eastern side of Hanbury Road. There is no footpath to that side of the road, so the narrow verge and hedgerow and tree planting of the site are prominent enclosing features to the road. Hedgerows are also present at other boundaries, including to most of the northern boundary with Stoke Pound Lane. The northern and southern boundaries are partly open to neighbouring homes, and the eastern

- boundary also features some planting but, due to the slope of the field north to south, a railway line is partly elevated above it.
15. To the opposite side of Hanbury Road are two generally parallel rows of homes, arranged in long narrow plots perpendicular to the road, with access taken from it or Foley Gardens. Adjacent to its northwest corner is Intall Fields Farm, which includes Summerfields and other homes formed of converted agricultural buildings. Across Stoke Pound Lane and over the railway line to the east are Happy Bank Farm and Little Intall Fields Farm. South of the site, between it and the railway bridge over Hanbury Road, is a pair of homes in large gardens.
 16. The site is at the edge of Stoke Prior and bordered by two roads and a railway line, but from what I experienced at the time of my visit, it appears to share common characteristics with the varied pattern of open and undeveloped fields and other land within the countryside that envelope and bleed into Stoke Prior. It is therefore not visually distinct from that context, as other fields nearby are also enclosed by hedges and remain very distinct from built forms. These are important to the historic positioning of Stoke Prior within its rural context. While noise and movement on the roads and railway line mean the site is not a tranquil area of the countryside, this does not alter its perception as part of the countryside around the settlement.
 17. Accordingly, I have no reason to disagree with the appellant's Landscape and Visual Appraisal (LVA) that the site broadly displays characteristics of the Stoke Prior Principal Timbered Farmland Landscape Character Type, described in the Worcestershire County Landscape Character Assessment (2011).
 18. Taken together these stated features, particularly the open and undeveloped nature of the site, give rise to a clear and distinct, pattern of development. The presence, or not, and the nature of built form also helps to distinguish between more urban and rural forms, including the countryside. This makes a significantly positive contribution to the countryside setting of Stoke Prior, and therefore its character and appearance, and contribute to establishing the important characteristics of openness of the Green Belt, so the site would be sensitive to change.

Purposes of Including Land within the Green Belt

19. The Council's Green Belt Review Part 1 (2019) split the district's Green Belt into parcels of land, each of which was assessed to establish its importance to the five purposes that the Green Belt serves, as set out in the Framework. Part 2 of the Review to consider sites for the development of housing has not been produced, as required by BDP Policies BDP3 and BDP4. There is also agreement between the main parties that the only purposes that apply to the site are to prevent neighbouring towns merging into one another and to assist in safeguarding the countryside from encroachment.
20. The proposal would project east from Hanbury Road but would not extend further than the northern point of existing built forms, where it would meet existing development in Stoke Pound Lane. Further built form would be added to the gap between Bromsgrove Town and Stoke Prior, but the site makes a very limited contribution to preventing these from merging, so there would not be harm to this purpose.

21. The Part 1 Review identifies urbanising features extending from Bromsgrove Town into countryside of the Green Belt, including pavements, street lighting and commercial development. The appellant's Landscape and Visual Appeal Statement of Case (LVASoC), which refers to pylons and masts, security fencing along the railway line, and the busy nature of this route and nearby roads. However, these are commonplace within the countryside and do not sufficiently alter the character of the site and its surroundings from being part of the countryside interspersed with such development and homes. The moderate weighting to the contribution made by the parcel of land within which the site is situated to safeguarding the countryside from encroachment is reasonable and proportionate, given it is not undeveloped in its entirety.
22. Planting at some of the site's boundaries mean it is reasonably well contained and existing buildings therein provide different characteristics to fields between the two parts of the settlement and east of the railway. However, it is not visually isolated from the countryside and its proportions and generally open and undeveloped nature means it has a closer relationship with the fields and other parcels of land around Stoke Prior. It is also perceptible in the context of surrounding houses, and commercial and farming operations from distance south in Hanbury Road, east in Stoke Pound Lane and the Canal towpath.
23. The proposal would be for development that is not intrinsically linked to the countryside and, for the above reasons, it would encroach from Hanbury Road and Stoke Pound Lane into the countryside. While this encroachment would not be extensive, I conclude that it would nevertheless result in conflict with the purposes of including land within the Green Belt as stated in the Framework.

Openness of the Green Belt

24. In the previous main issue, I established that the site is visible within the surroundings of Stoke Prior. Even with landscaping and the proposed areas of open space, the built form associated with the new access from Hanbury Road, and the indicative uses and buildings would be conspicuous within this context, most notably from the Canal towpath. Moreover, permanent development would be introduced into the field, where it does not currently exist, to some depth away from buildings in situ at the northwest corner of the site and others in adjacent roads. The proposal would therefore result in a harmful loss of openness of the Green Belt in both visual and spatial terms.
25. The design of the proposal, including the appearance of buildings, their layout and landscaping could all offer some mitigation to its presence, and the harm to openness would be localised. Nevertheless, openness cannot be preserved if there is a finding that there would be an adverse impact on it, of any kind.
26. I have had regard to the appeal decision for a site at Colney Heath³, as far as it is relevant to this appeal. However, it backs onto residential development and a park, and the adjacent roads enclose the outer perimeter of a much larger block containing all these and the site. In contrast to the appeal before me, that site has a stronger physical association with existing residential land, so it does not compare to the stronger countryside relationship at Stoke Prior.
27. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The essential characteristics thereof are their

³ Appeal Ref: APP/B1930/W/20/3265925 - Roundhouse Farm, Land Off Bullens Green Lane, Colney Heath.

openness and permanence. The openness of the Green Belt has a spatial aspect as well as a visual aspect, so the physical and visual presence of built forms may affect openness. For the above reasons, I conclude the proposal would have a harmful effect on the openness of the Green Belt and so would be contrary to these main aims of the Green Belt policy set out in the Framework.

Character and Appearance, Including the Countryside Setting of Stoke Prior

28. Although the submitted layout plan is only illustrative, together with the other application and appeal documents, it indicates that the proposal would be a development of significant proportions to the edge of Stoke Prior, within the undeveloped and open site. Moreover, it would stand alone as a distinct built incursion of noticeable depth into the countryside, be more synonymous with built form in the west of Stoke Prior and appear spatially distinct from the established grain of development to the east, particularly in Hanbury Road.
29. The wider impact of the proposal on the surrounding rural landscape within the Stoke Prior Principal Timbered Farmland would be limited to some close views within the immediate locality and from the Canal towpath, over the railway. Residential development is also not out of context north of the railway line and undoubtedly has a more appropriate appearance than much of the industrial development between the two parts of Stoke Prior. Nevertheless, the site and its relationship with the verdant edge of existing development in Hanbury Road and Stoke Pound Lane is a key component of those views, along with the relationship between open and undeveloped fields and the settlement. The subsequent loss of openness and erosion of the site's undeveloped qualities would undermine how the countryside currently bleeds into Stoke Prior.
30. The indicative landscape strategy for the scheme is likely to be integral to the layout of the appeal scheme and reflect planting found in the landscape. However, it would be unlikely to have matured enough in its initial years of development to the extent that it would soften the visual effect of the physical presence of the proposal in its sensitive location.
31. Conversely, while much of the hedgerow in Hanbury Road would be removed to provide highway visibility, at the Hearing the appellant stated the existing hedge could either be transplanted behind the splays or replaced by a mature hedge of better quality. The acoustic enclosure required for the railway line could also be designed with a natural appearance. I have not been made aware of any prohibitive reason these could not be developed for landscaping of the site. Hence, these are not aspects of the proposal that add to visual harms.
32. Despite these factors, I cannot agree with the findings of the LVA and LVASoC regarding the magnitude of the impact of the proposal, as it would amount to an atypical expansion and suburbanisation of settlement that would have a significant and intrinsically harmful urbanising effect. Accordingly, I conclude that the proposal would have a detrimentally harmful effect on the character and appearance of the site and its surroundings, including the countryside setting of Stoke Prior. It would therefore be contrary to the design aims of BDP Policy BDP19 and Framework paragraphs 135 and 139. It would also conflict with the Framework's aims in paragraph 180 regarding the contribution of the proposal to and enhancement of the natural and local environment through recognition of the intrinsic character and beauty of the countryside.

Special Interest, Significance and Setting of the Heritage Assets

33. At the Hearing, the Council confirmed it would rely on the appellant's Heritage Statement of Case (HSoC) regarding the significance of the heritage assets. However, I have had regard to the evidence before me, including that from interested parties in establishing this along with special interest and settings.

Listed Buildings

34. Some distance northwest of the site is the Grade I listed Church of St Michael⁴, which probably dates from the early-12th Century but was subject to later alterations, including restoration during the 19th Century. In so far as it is relevant to this appeal, its special interest lies in its architectural and historic interest as a medieval church of the highest importance. In particular, the use of stone ashlar and shingle in its spire and tiled roofs in its construction ensures its architecture is typically ambitious and decorative. The stone is laid in irregular coursing and used extensively in dressings of copings, banding, door and window framing and buttresses. The top of the bell tower is marked by a metal roof and spire projecting therefrom and has openings to all faces.
35. The Grade II listed Lych Gate⁵ provides a covered gated access from Hanbury Road into the churchyard. It was originally the south porch for the Church and likely of 14th Century origin. It too was restored in the mid-19th Century but repurposed. It is constructed of a fine timber-frame, beneath a tiled roof and incorporates exemplary and elaborate joinery. For these reasons, in so far as it relates to this appeal, its special interest is to be found in its architectural and historic interest as 14th Century former porch, now in use as a lychgate.
36. The churchyard also contains the Grade II listed Stoke Prior War Memorial⁶, designed by the Bromsgrove Guild and likely erected in around 1920. In so far as it is relevant to this appeal, its special interest lies in its historic interest as a tragic reminder of the effect of world events to the church and its community through lives lost during conflicts of the 20th Century; and its architectural interest for the elegantly designed and constructed Celtic wheel stone cross and its elaborate strapwork carvings and inscriptions.
37. To the east of the site, across the railway line, is the a Grade II listed Little Intall Fields Farmhouse⁷. It was likely constructed in the early-18th Century but has been subject of some later alterations. It is of two-storeys with rooms in its attic space and constructed of brick beneath a tiled roof. The front façade is three bays wide with striking white casement windows arranged above and to either side of a central door, and external stacks to each gable. There are two perpendicular gabled wings off the rear, set down from the principal ridge line. Despite later alterations, and as far as it is relevant to the appeal, the special interest of the building is as a good example of a well-preserved early-18th Century farmhouse, constructed in vernacular materials.
38. I am mindful of the definition of 'setting' in the Framework as being the surroundings in which a heritage asset is experienced. This is not fixed and may change as the asset and its surroundings evolve. Moreover, the historic mapping in the HSoC indicates the settings of the listed buildings have changed

⁴ List Entry Number: 1100179

⁵ List Entry Number: 1100180.

⁶ List Entry Number: 1462962.

⁷ List Entry Number: 1100183.

through introduction of built forms in their surroundings. The principal changes have been from the late-19th Century onwards to the west of Hanbury Road, at Intall Fields Farm, and through the introduction of houses and businesses along the former. Despite such changes, the open and undeveloped character of the agrarian landscape around Stoke Prior, including the site, has remained largely unaltered and well-preserved. This is therefore an integral part of the setting of these assets and the understanding of their role in its layout and development.

39. The church is situated within secluded grounds by virtue of tree planting at its perimeter and in its yard, which provides a very discreet immediate setting to the church. However, I am mindful of the contribution made by agricultural landscapes to the setting of churches. Moreover, I have set out above that Stoke Prior is enveloped by fields and other land. Given its height, the spire to the church tower is visible from across the site, including behind The Mount from the Canal towpath, and along Stoke Pound Lane, especially through gaps in vegetation and during winter months. The ability to appreciate and experience the spire therefore reinforces the importance of the church within its wider historic rural setting.
40. The site is relatively close to the Lych Gate and War Memorial, but mature tree planting and the topography between them and the site are factors that ensure there is no intervisibility between them and it does not contribute to their settings.
41. Little Intall Fields Farmhouse is to the east of the railway line and separated from the site by a large field. Its immediate surroundings, including adjacent fields, are of greater importance to its isolated setting within the open and undeveloped fields in the surrounding agrarian landscape. Nevertheless, it is visible from the site and in views available from the Canal towpath. The site therefore contributes positively to the wider rural setting of the Farmhouse.

Worcester and Birmingham Canal Conservation Area (CA)

42. The Character Appraisal and Conservation Management Plan for the CA explains it follows the Canal from the Southern Portal of the Tardebigge Tunnel to Bridge 41 at Astwood Lane, primarily covering it and the towpath, but it expands out to take in canal-related development, including at Stoke Prior.
43. The significance of the CA is derived from its character and appearance, which are informed by its architectural and historic interest, along with its sense of place and setting within the rural landscape of the district. Its construction marked engineering accomplishments, with the Tardebigge Tunnel cutting through bedrock, and the Tardebigge Flight descending 220 feet through 30 locks. The latter being the greatest number of locks over its distance. It was also a strategic solution to provide connections for coal transportation to Worcester and the River Severn, and was used for local trade.
44. Much of the original infrastructure and buildings constructed with the Canal remain and, despite being in private ownership, are used and well-preserved. Moreover, a high proportion are statutorily listed, including the locks in the Tardebigge Flight. This further emphasises their significance within the CA.
45. West of Bridge 45 the Canal is marked by tree planting, increasing in depth north of Stoke Wharf and to the south in larger plantations. This provides a sylvan backdrop to the former maintenance and warehouse buildings in the Wharf. Conversely, as explained above, east of Bridge 45, the lower hedge and

tree planting enables extensive views north over the surrounding fields toward the site and Little Intall Fields Farmhouse. The environment is also generally tranquil, with noise mainly around routes over the Canal and railway line.

46. The site is more distant and beyond intervening fields, which reduces the contribution it makes to the historic rural setting of the Canal and its CA. However, this has essentially remained unchanged since its construction, so the site places it in the context of Stoke Prior and surrounding countryside.

Bridge 45 and Locks 24-26, on the Worcester and Birmingham Canal

47. The HSoC suggests Lock 24 is not proposed for local listing, but I am referred to it in the evidence as forming part of a NDHA. The locks and Bridge 45 are roughly halfway between Hanbury Road and Whitford Bridge Road. The bridge provides access for fields either side of the Canal and is of similar design to others along it, with a low broad segmental arch, banding and copings, and has a strong physical and functional relationship with the locks. The significance of the bridge and the adjacent flight of locks lies in their architectural and historic interest as well-preserved aspects of an early-19th Century canal.
48. For reasons outlined above, while the site is some distance northwest and contributes to a limited extent to setting of this NDHA, it is still important to its understanding and significance. Likewise, as original functional and usable features of the Canal, the NDHA makes a noteworthy contribution to the CA's character and appearance and, thereby, its understanding and significance.

The Navigation Inn and Navigation Row Cottages

49. The Navigation Inn is a large two-storey three-bay public house, with rooms in its attic, that likely originates from the 19th Century, following the completion of the Canal. It is of brick construction with a rendered exterior, including over rusticated window arches, and a slate gabled roof with chimneystacks to either end. The front has canted bay windows either side of an open porch, all over sailed by a flat roof. The wing at the rear is of varied age and heights, but set down from the principal range. Due to signage and detailing, the north façade is also prominent across its carpark. To the south is a former stable block arranged perpendicular to the street, which abuts the adjacent row of cottages.
50. Despite some 20th Century alterations, the Inn is a well-proportioned and detailed building, which occupies a prominent position within Stoke Prior. Together with the adjacent cottages, it has an important former functional association with the canal and the CA. It is therefore a NDHA of some notoriety and makes a positive contribution to the character and appearance of the CA.
51. There are extensive views from its carpark northeast and east, including over the railway line to the site and Stoke Pound Lane, and toward the eastern part of the CA. This emphasises the Inn's edge of settlement location and places it in its rural surroundings. These also contribute to the backcloth behind it in similar views from the street and industrial estate opposite. Given the site's distance from the Inn, it makes a limited but positive contribution to its rural setting. Rather, open, and undeveloped land adjacent is of greater importance.
52. A small Gothic niche to the front of Navigation Row Cottages states they were built in 1849, likely for employees of the Canal and their families. It is a terrace of five two-storey properties and, while its composition is simple, brick detailing adds quality to its appearance. Blue brick pilasters are used at either end and

between to demarcate each cottage, red and blue brick are laid in Flemish bond across the façade, there are red brick door and window arches, overhanging eaves and verges that create shadow lines, and rebuilt tall stacks to the ridge. Despite altered fenestration and its frontages being opened up, the terrace still exhibits architectural qualities of note, and it makes an important contribution to the CA, including its history as a working Canal. Moreover, they remain legible as part of its former functional elements. The setting of the cottages is generally focused on its relationship with the Canal, Inn, and the outbuildings between them. Tree planting between the site and terrace means the site contributes very little to their setting.

Intall Fields Farm, including Summerfields

53. Intall Fields Farm is a former farmstead arranged in a loose courtyard, comprising Summerfields, a large quadrangular former farmhouse at its southern extent, a large L-plan range with a former threshing barn parallel to Stoke Pound Lane and a kinked wing to its southeast, and a detached former coach house to its southwest. The courtyard has since been subdivided.
54. Summerfields is a Victorian villa, built in a restrained neoclassical style, with a slate crown roof and tall chimneystacks to the flank walls. It is well-detailed to all sides, but its three-bay south façade is its most elaborate, with its main entrance through a grand open porch marked by Tuscan pilasters and Ionic columns. To either side are bay windows at ground floor and sash windows above with a prominent banding between.
55. There is some disagreement between the appellant and others as to the age of Summerfields, with the appellant relying on the tithe map of 1840 and absence of changes to the building marked in its position thereafter; along with details being consistent with The Mount, built around that time. Whereas the current owner suggests John Corbett, a salt magnate, built it in 1872, potentially to a design by Richard Phené Spiers, architect of Chateau Impney, near Droitwich. The appellant states it transferred into Corbett's ownership in 1869. While the architecture of Summerfields is to a high standard and its association with Corbett and/or Phené Spiers could increase its significance, the evidence before me does not enable me to say with sufficient certainty this was the case.
56. At the Hearing, the Bromsgrove Civic Society embellished upon reference in the HSoC to pre-World War One use of the villa as a Colonial Training College for women in practical work skills, independence, and teamwork.
57. The buildings are not statutorily listed but, together, they form a group as a NDHA. Despite the conversion of the buildings in the group to residential use, including to the courtyard between, their former form and function remains legible, and they are largely well-preserved. Summerfields is also a villa of high-quality from the period. In so far as it relates to the appeal before me, their significance is to be found in their architectural and historic interest as a 19th Century farmstead, incorporating a Victorian villa and former agricultural buildings. Accordingly, I consider they are collectively of moderate significance, albeit Summerfields is of a higher level of significance given its architectural qualities and history, particularly to the individual and collective advancement of women in the early-20th Century.
58. The historic mapping illustrates that housing was developed north of Stoke Pound Lane and west of Hanbury Road, but Summerfields and the farmstead

have continuously had a close relationship with the countryside east of Stoke Prior. Moreover, open, and undeveloped agricultural land adjacent to the Farm has remained largely unaltered, except for replacement livestock and other agricultural buildings within the site, immediately east of the coach house. This increases the importance of its setting within the rural landscape.

59. Mature planting at field enclosures ensures there are limited clear views of Summerfields from Hanbury Road, but it is visible from within the site and across the open countryside beyond Stoke Prior. Furthermore, in views from Stoke Pound Lane and its junction with Hanbury Road, the other buildings are positioned in the foreground of the villa and its elevated position above the latter. They are therefore prominent in their immediate surroundings.
60. The farmstead was historically set away from the main parts of Stoke Prior, so its rural surroundings are an integral part of its historic setting. This is important to its understanding and significance, particularly the outlook from Summerfields and its elevated garden, south and east over the site. Moreover, its garden features a ha-ha adjacent the site.

The Mount

61. The Mount is a mid-19th Century villa situated on higher land at the corner of Stoke Pound Lane and Hanbury Road. Beyond what I saw from public land during my site visit, it was not possible for me to consider anything other than the images and information provided in the evidence. These indicate it is a three-storey brick villa, with a partly stuccoed exterior, beneath a pitched slate roof. It is arranged on a T-shaped plan with a later twin-gabled entrance wing arranged perpendicular to its rear façade.
62. There is a difference of opinion as to whether it was a farmhouse or simply a country house. However, I do not find this to be determinative, as there is an important physical relationship between the house and the surrounding countryside. I therefore find it to be a NDHA of moderate significance.
63. While the property is predominantly enclosed by a combination of mature trees and hedgerows, there is some visibility of it from neighbouring roads, including the top of the principal range of the house from within the site. Hence, views over the countryside southeast of the house are likely from rooms therein. However, this is from the rear of the house and its principal outlook is designed to be northwest over its garden. Despite this, open and undeveloped land within the site makes a meaningful contribution to the rural setting of The Mount and its understanding as a mid-19th Century rural villa.

124 Hanbury Road

64. This detached two-storey, three-bay house, overlooks the carpark of the Inn and is north of the access to the industrial estate. It is therefore situated in a prominent location, albeit outside the CA. The appellant dates it as being of the mid- to late-19th Century. I have no reason to doubt this given historic maps.
65. While the brick exterior has been rendered over, the dentil eaves coursings are visible beneath its a steeply pitched slate roof. This is bookended by gables and projecting chimneystacks, each with oversailing details. The windows to the front appear to be identically proportioned above and to each side of an ornate slate canopy over the open porch to the door.

66. Despite alterations to it in the late 20th Century, the significance of the house is to be found in its pleasant appearance, including its original architecture and detailing. Outlook from the house and its surroundings extends over land east of Stoke Prior, including the eastern part of the site. However, such views are severed by the railway line and its bridge over the road, so the group formed with the Inn and cottages make a greater contribution to its setting.

116-120 Hanbury Road

67. This is a terrace of three late-19th Century two-storey homes sited close to the footway on Hanbury Road. Despite exhibiting some architectural detailing through dental coursing and large chimneystacks, it has been altered significantly, including projecting porches and new windows. The terrace is therefore a NDHA of limited significance. The site is to the opposite side of the road, some distance north of the terrace and separated from it by a pair of homes opposite, so it does not contribute to its setting or significance.

Effect to Heritage Assets

68. The layout of the proposal is indicative, but it demonstrates that a considerable extent of the intentional views from Summerfields and its garden, out over the open and undeveloped countryside would be eroded by the presence of built forms within the site. The purposes of the former agricultural buildings in the farmstead, and Summerfields, would still be evident due to their relationship with adjacent roads. There is also potential for some visual enhancement of their surroundings in Stoke Pound Lane. Nevertheless, they would be enclosed by the proposal to a significantly greater depth to the south and east. Only a secondary relationship would therefore remain with the countryside to the northwest of the junction of Hanbury Road and Stoke Pound Lane. For these reasons, the proposal would cause a demonstrably high level of harm to the setting of Intall Fields Farm, particularly Summerfields, and its contribution to its understanding and significance as a NDHA.
69. The large field and railway line would remain between the site and Little Intall Fields Farmhouse. Along with further fields south of the Farmhouse, these would also separate the site from the CA and Bridge 45 and Locks 24-26 therein. Nevertheless, the proposal would introduce considerable development closer thereto. This would eat into the open and undeveloped rural setting of these heritage assets, and how they are experienced in relation to the verdant edge of Stoke Prior and countryside to its east. Hence, the presence and extent of built forms proposed within the site would be harmful to their rural settings. The fields adjacent would remain undeveloped, so key parts of their settings would be preserved, but the harm to each would still be of a moderate extent.
70. While the scale of buildings across the site has not yet been fixed, the Church spire would be experienced beyond a decidedly more urban environment of some depth south and east within the site. However, in views northwest of the spire, this would be in the foreground of The Mount, which already obscures much of the spire. Furthermore, it should be possible to design the scheme to maintain such views and the role the spire plays in directing attention to the Church. The proposal would therefore not be harmful to the historic rural setting of the Church within the countryside around Stoke Prior.
71. The proposal would replace farm buildings opposite The Mount with custom or self-build homes. The rural setting of this building to the south would be eroded

by additional built development beyond. However, this is a secondary part of its setting and the principal aspect, northwest, would be unaffected. As such, the harm that would result to the setting of this NDHA, and its understanding as a mid-19th Century rural villa, would be limited.

72. As I referred to above, the site does not contribute to the setting of the Lych Gate and War Memorial, so their settings would be preserved, and the proposal would not detract from them. Similarly, given the presence of intervening natural and built features between the site, its proximity with 116-120 and 124 Hanbury Road, and Inn and Cottages, and the contribution it makes to their settings, the proposal would not detract from the settings of these NDHAs.
73. I have identified above that the proposal would not be harmful to the settings of the Grade I listed Church of St Michael, the Grade II listed Lych Gate and War Memorial; and the NDHAs at 116-120 and 124 Hanbury Road, and The Navigation Inn and Navigation Row Cottages. Nevertheless, for the above reasons, I conclude that the proposal would have an unacceptably harmful effect upon and therein fail to preserve the setting of the Grade II listed Little Intall Fields Farmhouse. It would also have an unacceptably harmful effect on the setting of the CA, and three NDHAs, namely Intall Fields Farm, The Mount, and Bridge 45 and Locks 24-26. Hence, it would conflict with the heritage aims of BDP Policy BDP20; and Framework paragraphs 201, 203, and 205. Failure to preserve the setting of the listed building also means there is conflict with the duty in Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act). However, as the site is not adjacent to the CA, I do not find conflict with paragraph BDP20.9 of BDP Policy BDP20.
74. The statutory duty in the Act is a matter of considerable importance and weight, as are the aims of Section 16 of the Framework. The proposal would be harmful to the setting of Little Intall Fields Farmhouse and the CA, which would harm their significance as designated heritage assets.
75. The Framework identifies harm as 'substantial' or 'less than substantial', it does not introduce a further spectrum in relation to either category for decision makers to place any identified harms to the significance of a heritage asset, including the contribution made by its setting. Notwithstanding the extent of harm identified above, I consider the Framework's division of harm to be sufficient to undertake the balancing exercise to determine whether the appeal proposal is acceptable. Moreover, this equates to less than substantial harm to each asset. Framework paragraph 208 identifies this harm should be weighed against public benefits of proposals. In identifying harm to the setting of the NDHAs, Framework paragraph 209 requires a balanced judgement having regard to the scale of any harm or loss and the significance of the heritage asset. I apply both balances in the *Planning Balance and Conclusion*.

Best and Most Versatile Agricultural Land

76. At the Hearing, the Council reiterated it did not contest the classification of the site as Grade 3(a) agricultural land, as contained in the appellant's Agricultural Land Classification Report. The appeal site therefore constitutes Best and Most Versatile Agricultural Land (BMVAL). Whether the land has been in such use recently is disputed, but the proposal would result in permanent loss of such land. Despite this, the main parties agree in the SoCG that the extent of land would not be significant and there is no substantive evidence before me that

would lead me to an alternative conclusion, nor suggest the land is required for food production.

77. There is no policy principle for the retention or protection of agricultural land within BDP Policy BDP15, to which I have been referred, so I have not found in relation to it. However, the Council also made its decision based on the Framework's approach to agricultural land. With the above in mind, I conclude that the proposal would not lead to a significant loss of BMVAL and there would not be conflict with the aims of Framework paragraphs 180 and 181.

Other Considerations

78. In assessing and ascribing weight to the stated benefits of the appeal scheme, I have had regard to the appeal decisions to which I have been referred in the appellants *Planning Statement of Case*, and weight is attributed to each, rising from no weight, limited, moderate, significant to substantial.

Housing Delivery

79. The main parties agree that the Council is only able to demonstrate 3.3 year's deliverable housing land supply. Furthermore, at the Hearing, the Council confirmed no further progress had been made in relation to the Local Plan Review required by BDP Policies BDP3 and BDP4, to allocate sites for 2300 homes by 2023. This is of paramount importance given most land within the district is designated as Green Belt. The uncertainty regarding housing delivery in the district will therefore remain until such time as the Council has an updated and adopted strategy to meet its unmet housing need.
80. The appeal scheme would boost the supply and mix of homes in Bromsgrove and help to address the significant shortfall in supply in the district and contribute to addressing the unmet needs in Birmingham and the Black Country, as agreed in the SoCG. The proposed homes could be built out relatively quickly and, due to the scale of the proposal and the significant shortfall in housing supply, I afford this benefit substantial weight.

Affordable Housing

81. The appeal scheme would include 39 affordable homes that meet the definition outlined in Annex 2 of the Framework, including a mix of Social Rented Units, Shared Ownership Units and First Homes. This equates to ten percent more homes than required through BDP Policy BDP8. Provision thereof and control by a Registered Provider would be secured by the Unilateral Undertaking (UU).
82. The SoCG also alludes to problems of delivery of affordable homes in the district, as on average only sixty affordable homes have been constructed each year since 2011 and this figure fell to 42 over the period 2017-2022, after the BDP was adopted. The Council therefore accepts delivery is much lower than its identified needs, meaning the shortfall increases. Residents in the district are also facing significant waiting times of over two years⁸, so the outlook is very bleak for the substantial number of households on the Council's waiting list⁹. The appellant has also demonstrated considerable affordability problems in the district with house prices and rent levels in relation to earnings.

⁸ As set out in the SoCG, as of August 2022, this was an average of 827 days.

⁹ 3147, as of June 2023.

83. It is impossible to ignore the reality of the consequences of these factors and there will undoubtedly be significantly harmful impacts on the lives of those affected. The persistent under delivery of affordable housing in the district and the unmet need for these homes therefore represent acute problems. There is also no substantive evidence before me of the likelihood of any improvement in delivery or a plan-led solution in the short- to medium-term, as the required review of the BDP has not been undertaken.
84. Affordable housing is a scarce resource in the district and the proposal would deliver a significant number of homes, which would help to meet its needs for affordable homes. Accordingly, for these reasons, I afford substantial weight to the delivery of 39 affordable homes in this location.

Self or Custom Build Homes

85. The SoCG sets out that there is no policy framework in the BDP to deliver self or custom build homes and the Council is not meeting the need identified through its Self Build Register. At the Hearing, the Council was not able to determine the shortfall for the district in the provision of permissions for plots for self-build and custom homes that meet the requirements of the 2015 Act¹⁰. On this basis, I afford substantial weight to the provision of five plots for self or custom build homes, as it would help the Council to meet its statutory duty and address unmet demand. This would be secured by the UU, including reversion to the open market as such units after a period of six months and then market housing after a further twelve months.

Passive House Certification

86. At the Hearing, the appellant conveyed that climate change is the most significant global challenge. Although the proposal is likely to contribute to climate change, Passive House would be a significant improvement upon the Building Regulations and it is likely to be needed to achieve Net Zero by 2050. While there may be some scepticism in the construction industry, there is insufficient substantive evidence before me to demonstrate Passive House construction could not be achieved from a cost perspective and or secured by conditions linked to implementation and occupation of the development.
87. The approach would accord with BDP Policy BDP22 regarding climate change, and the aims to such matters expressed in the West Midlands Design Charter and Zero Carbon Homes Charter. Given the magnitude of the scheme, this would amount to environmental and social benefits of significant weight.
88. The proposal would fail to fit in with the overall form and layout of its surroundings, as required by Framework paragraph 139, but I am conscious design is a separate element that does not hinder certification as Passive House. There have been few examples of such developments in England, so I afford moderate weight to the proposal as an opportunity to form a template for other schemes to follow and inform preparation of an emerging local plan.

Community or Commercial Building

89. The proposed building would supplement the existing village hall and could be used for, amongst other things, recreation and coworking. The indicative layout of the site shows it to be sited east of the site, but the UU ensures the precise

¹⁰ Self-build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016).

location would be agreed before Reserved Matters. There is no policy requirement for the building, so it would amount to something additional for the village. However, given the overall uncertainty surrounding its end use, I cannot be certain it would be necessary to make the development acceptable in planning terms, as required by Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 (CIL Regulations) and Framework paragraph 57. Accordingly, I have afforded it limited weight as a social benefit.

Economic and Social Benefits

90. There could be benefits through the construction phase of the development, further spend in the economy and support of services in Stoke Prior. Moreover, the Home Builders Federation Online Housing Calculator estimates the proposal could support 241 jobs, provide two apprentices, and generate almost £1 million in tax revenue. While there is no formal mechanism to ensure the proposal would provide local employment or skills provision, the Council has not sought to challenge these figures. Accordingly, they are significant benefits.

Off-site Highway Improvements

91. The proposed works within the highway are primarily required to make the development acceptable, but could necessitate further provisions that benefit the wider public. However, this must first follow a Road Safety Audit process. As such, I afford these limited weight as social benefits of the proposal.

Biodiversity Net Gain, Landscaping and Drainage

92. I am mindful that biodiversity net gain is not yet a mandatory requirement of development, but the Framework is supportive of measurable attempts to secure such benefits. Notwithstanding the removal of hedges to facilitate access, the indicative scheme would provide, amongst other things, additional tree planting, new and reinforced hedgerows, wildlife ponds and wildflower meadow. This is calculated by the appellant to almost double the existing habitat score from 6.92 to 12.59 units and the biodiversity value of hedges would increase by 43%. This therefore provides sufficient assurance it should be possible to achieve gains through the proposal that I afford moderate weight as environmental benefits.

Location of Development

93. The Settlement Background Paper which informs BDP Policy BDP2 was produced in 2012 and the appellant's *Sustainability (Location) Statement* is clearly contemporary. Things have clearly changed on the ground in Stoke Prior, such as new housing, so it needs to be reappraised in relation to, amongst other things, its service and employment provision, and connections with other settlements by sustainable means of transport. Nevertheless, it is not possible to say, with any degree of certainty, that had further progress been made with the Local Plan, Stoke Prior would have been upgraded to a higher order settlement. It is also unclear what affect this would have had on the suitability of the site for the proposal. The stalled review of Green Belt land for new sites for housing also offers no certainty a site of the magnitude of the appeal site, in its location, would have been identified for housing. It is only the purpose of this appeal to determine whether the appeal site would be suitable for the proposal, not how and where Stoke Prior could grow.

94. Therefore, I am only able to afford limited weight to the appellant's assessment as to whether the site would be within a part of the district that would be the most logical direction to grow the settlement and the benefit of this brought about by the proposal. In any event, I ascribe no weight to benefits associated with the site's accessibility to facilities and services in Stoke Prior or elsewhere nearby, as I consider this to equate to an absence of harm.

Heritage Benefit

95. The proposal includes potential for views to be revealed of the CA southeast from the site, which have not previously been open to the public, and there would also be some enhancement to the Stoke Pound Lane frontage. However, details of these, including their overall quality and extent would be subject to the layout of the site and landscaping. For the former, the acoustic enclosure along the railway line would also need to be considered. Hence, I am only able to afford these heritage benefits limited weight at this point in time.

Other Benefits Secured by the Unilateral Undertaking

96. The UU also includes provisions for contributions to be made towards active travel (through the installation of crossing points some distance north of the site at the Hanbury Road and Redditch Road junction); community transport services for elderly and disabled residents of the development; a capital project to increase capacity of the service of the local GP Practice in Stoke Prior; and provision of waste collection bins for each dwelling. The UU also includes options for the final contributions towards education and home to school transport to be determined through the appeal, as the appellant and County Council could not agree on the amount payable. While these contributions are not categorically stated, I am satisfied that, along with the other provisions listed above, they all meet the tests set out in the CIL Regulations and the Framework. Moreover, they are directly related to the development because they are proposed to mitigate against the local impact of the proposal on infrastructure and services. They are also reasonable in scale and kind, as they are informed by the latest evidence as to what would be required to provide mitigation. Nonetheless, as these obligations can only mitigate against the proposal, I afford them limited weight as benefits associated with it.
97. I am mindful that the Inspector for the appeal at Codicote¹¹ gave education contributions significant weight, but there is nothing before me to suggest local schools are not currently able to meet the needs of Stoke Prior.
98. The UU also includes the delivery of open space, including a children's play area, and makes provision for a management scheme to provide long term security. The play area is indicatively shown to be near Hanbury Road, so could benefit existing residents of Stoke Prior. While it could be located further into the site, I afford this moderate weight as a social benefit of the scheme.

Planning Balance and Conclusion

Heritage Balance for the Listed Building and Conservation Area

99. Framework Paragraph 205 states when considering the impact of a proposed development on the significance of a designated heritage asset, great weight

¹¹ Appeal Ref: APP/X1925/W/21/3273701 - Land south of Heath Lane, Codicote SG4 8YL.

should be given to the asset's conservation (and the more important the asset, the greater the weight should be).

100. I have already identified the stated benefits of the appeal scheme in 'Other Considerations' and, taking these together, while there would be substantial and significant public benefits associated with the extent and nature of housing and its certification, and economic and social gains; and other moderate and limited benefits, the harm that would be caused to the setting of the Grade II listed Little Intall Fields Farmhouse and the CA by allowing the proposal would be of greater significance. In accordance with Framework paragraphs 205 and 208 and BDP Policy BDP20, considered together, I am not persuaded there would be wider public benefits of sufficient magnitude to outweigh the great weight to the assets' conservation and considerable importance and weight to the less than substantial harm identified to their significance.

Balanced Judgement for Non-Designated Heritage Assets

101. The harm to Intall Fields Farm would be demonstrably high and the principal harm would be to the setting of Summerfields, which is a NDHA of high significance. The harm would be moderate to Bridge 45 and Locks 24-26, but it is a key contributor to the significance of the CA and the site is most visible from the part of the CA within which it is situated. It therefore shares the same setting as the CA. In such circumstances, the benefits associated with the proposal would not outweigh the harm that would be caused to the significance of these assets. Conversely, the harm to the setting of The Mount and, thereby, its significance would be limited and outweighed by the benefits. Nonetheless, there would be conflict with BDP Policy BDP20 and Framework paragraph 209 in respect of two of the NDHAs.

Whether Very Special Circumstances Exist in the Context of the Green Belt

102. The development of most of the appeal scheme would constitute inappropriate development in the Green Belt, except for that part in the site's northwest corner that is previously developed land. The former would therefore conflict with the Framework and BDP Policy BDP4 and is harmful by definition. The same area of land would also reduce the Green Belt's openness and its effectiveness at safeguarding the countryside from encroachment. This gives rise to additional harms in conflict with the Framework's aims in respect of the Green Belt. Framework Paragraph 153 advises substantial weight should be given to any harm to the Green Belt and 'very special circumstances' will not exist unless potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
103. As I outlined in the other main issues and the heritage balance and balanced judgement, there would be harm to the setting of heritage assets, and the character and appearance of the site and its surroundings, including the rural setting of Stoke Prior. These harms also bring conflict with the development plan and Framework. The absence of harm in respect of the loss of agricultural land would neither weigh for nor against the appeal scheme.
104. Against these identified harms, while other considerations have been advanced including a wide range of benefits afforded substantial and significant weight to moderate and limited weight, they would not be sufficient to clearly outweigh the harm to the Green Belt, and the other harms I have identified

above. Consequently, the very special circumstances necessary to justify the development do not exist.

Development Plan Consistency with the Framework and Final Balancing

105. While the BDP predates the current Framework, it is clear existing policies should not be considered out-of-date simply because they were adopted or made prior to its publication. Due weight should be given to policies according to their consistency with the Framework.
106. In the first main issue I explained that BDP Policy BDP4 includes exceptions close to the wording of the Framework, but it does not repeat the other forms of development that are not inappropriate development set out in Framework paragraph 155. As it is clearly designed to guide development in the local Green Belt context, I find it to be reasonably consistent with the Framework. However, given the failure to identify land for approximately 2,300 homes for the district, required by Policies BDP3 and BDP4, I am only able to afford conflict of the proposal with Policy BDP4 limited weight in relation to the consideration of inappropriate development.
107. BDP Policy BDP19 is generally consistent with the Framework in terms of its aims regarding achieving well-designed and beautiful places. The balancing exercises included in BDP Policy BDP20 do not expressly refer to the concept of less than substantial harm, but this policy is generally consistent with the heritage aims of the Framework. As such, I afford significant weight to the conflict of the proposal with these policies.
108. In light of the above, the appeal scheme would not accord with the development plan, when considered as a whole. Furthermore, the outcome of the above balancing exercises for the designated heritage assets and the Green Belt is that the application of policies in the Framework that protect these also provide clear reasons for refusing the development proposed.
109. This leads me to an overall conclusion that the appeal scheme would not accord with the development plan, when considered as a whole, and there are no other relevant material considerations, including the provisions of the Framework, that indicate the proposal should be determined otherwise than in accordance with the development plan. Accordingly, for the reasons given, I conclude that the appeal should be dismissed.

Paul Thompson

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

James Bullock	Zebra Landscapes
David Daniels	Sustainability: Passive House
Brynley Little	Appellant
Richard Little	Appellant

Stephen Priestley	Border Archaeology
David Wetherill	ET Planning

FOR THE LOCAL PLANNING AUTHORITY:

Paul Lester	Principal Planning Officer
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INTERESTED PARTIES

Grant Bishop

Kyle Daisley	Worcestershire County Councillor (and on behalf of District Councillor David Nicholl)
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John Roundell

Patricia Tansell	The Bromsgrove Society
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Peter Williams	Chairman, Stoke Parish Council
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DOCUMENTS HANDED UP AT THE HEARING:

Transcript of the speech read out by Peter Williams.

Graphics and statistics referred to by David Daniels in his evidence on behalf of the appellant.

DOCUMENTS RECEIVED FOLLOWING THE CLOSE OF THE HEARING:

Transcript of comments from District Councillor David Nicholl, read out at the Hearing by County Councillor Kyle Daisley.

Transcript of comments read out by Patricia Tansell.

Final set of agreed planning conditions.

The appellant's Unilateral Undertaking.

The signed Statement of Common Ground regarding the revised National Planning Policy Framework.



Costs Decision

Hearing held on 15 and 16 November 2023

Site visit made on 14 and 16 November 2023

by Paul Thompson DipTRP MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 February 2024

Costs application in relation to Appeal Ref: APP/P1805/W/23/3325834 Land at Intall Fields Farm, South of Stoke Pound Lane, Stoke Prior, Bromsgrove B60 4LE

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Mr Brynley Little (Your Land Partner Ltd) for a partial award of costs against Bromsgrove District Council and Worcestershire County Council.
- The appeal was against the refusal of planning permission for the erection of 78 new dwellings and a flexible commercial/community use building with associated access, infrastructure, landscaping, and open space provision; considering access into the site only and with all other matters reserved, at Land South of Stoke Pound Lane, Stoke Prior, Bromsgrove.

Decision

1. The application for an award of costs is allowed in the terms set out below.

The submissions for Mr Brynley Little (Your Land Partner Ltd)

2. A costs application was submitted in writing prior to the Hearing, but the following additional points were made orally in relation to the part of the application concerning Bromsgrove District Council (BDC):
 - Worcestershire County Council (WCC) confirmed in the days prior to the Hearing that it recommended refusal of the appeal application if the contributions it sought for home to school travel were not provided [this point is referred to in WCC's written rebuttal].
 - The applicant's transport and planning consultants had to produce three rebuttals and the applicant had to consider mobilising a consultant if required at the Hearing.
 - BDC subsequently only confirmed late in the afternoon on 14 November 2023, the day prior to the Hearing, it would not introduce a refusal reason in respect of that matter.
3. An additional costs application was also made orally at the Hearing against BDC in relation to the following:
 - The second and fourth reasons for refusal shouldn't have been before the Hearing.
 - There is an agreed position between the main parties in the Statement of Common Ground (SoCG) at paragraphs 2.36, 2.38, 2.39, 2.46-2.53 and 2.55, which demonstrate the BDC does not have a tenable position to

defend its second reason. No new evidence was submitted orally from BDC's written submissions.

- BDC also made vague assertions about the proposal's impact in its Statement of Case (BDCSoC) by not specifically elaborating on where the proposal would be visible from either in its written or oral evidence.
- The applicant produced written evidence from his landscape and planning consultants about the issue, but BDC did not call its expert landscape witness or seek their comments to defend this reason. The Hearing was prolonged and preparation time associated with this increased for that reason.
- In terms of its fourth reason for refusal, BDC should have reappraised its position regarding the applicant's Agricultural Land Classification report in relation to the National Planning Policy Framework (the Framework) and the development plan. The applicant requested this on 9 October 2023, but the SoCG is the most recent document and paragraph 2.69 therein has made BDC's position untenable, so it should not have been before the Hearing.

The response by Bromsgrove District Council

4. The response to the points made orally that added to the applicant's written submission covered the following:
 - The response by BDC was late as part of the costs response and it accepted it had taken a hands off approach with WCC, which it would need to look at going forward.
 - It is accepted by BDC that additional work and responses to WCC needed to be commissioned by the applicant.
 - BDC would have preferred discussion with WCC to take place at the appeal application stage, but that was not possible given the request was made as part of the appeal.
 - It is for the Inspector to determine whether the contribution sought is acceptable or not.
5. The response made to the additional costs application made orally at the Hearing covered the following:
 - There is disagreement regarding the nature and quality of BDC's evidence, but it demonstrates why the proposal is unacceptable and there is direct conflict with the development plan. The second reason for refusal is clear and concise. BDC did not call an expert witness, but this did not prolong discussion.
 - The Inspector is invited to review BDC's case set out regarding its fourth reason for refusal. It has not acted unreasonably, and the applicant has not incurred wasted expense.

Reasons

6. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that costs may be awarded against a

party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.

7. The applications for partial awards of costs are made on the basis BDC and WCC each acted unreasonably on procedural and substantive grounds.

Bromsgrove District Council

Written Claim (Including Oral Evidence)

8. The application is made on the basis of the points raised above and the following: BDC did not identify reasons for refusal on either highways grounds or the absence of planning obligations; it failed to liaise with WCC to determine why it changed its view on the proposal from the application stage, specifically whether the contribution sought for home to school travel was necessary, and if the appeal should be dismissed on such grounds, especially in light of the agreed points in the SoCG.
9. The omission on the Decision Notice (DN) of a reason for refusal of failure to provide contributions and other provisions through a legal agreement, including affordable homes, is not exceptional, as BDC had other reasons for refusal and set out in its Officer Report (BDCOR) the obligations required to mitigate against the proposal. However, it would have focussed the applicant's attention when deciding whether to seek to remedy BDC's concerns. There was also no highways reason for refusal on the DN, but BDC would have been unlikely to proceed with one, as no such concerns were identified by WCC. The applicant would therefore have expected that BDC would liaise with WCC to establish the reasons for its changed approach from the planning application, particularly having regard to the matters of agreement outlined in the SoCG.
10. The justification for WCC's requested contribution was briefly set out in its letter of 26 September 2023 and expanded upon in correspondence dated 9 November 2023. While BDC encouraged WCC to provide clarification of the reasons for its request, it accepts it should have taken a more active role in discussions between the applicant and WCC. Moreover, after being made aware of WCC's request for the home to school contribution, it should have been possible for BDC to set out whether it also required the contribution to be made and, if it were not, whether it would have recommended the appeal be dismissed on that basis. Despite the applicant requesting clarity, BDC did not clarify these points until late in the afternoon, the day before the event, after I sought for it to be prompted. Before this the applicant's planning consultant indicated in separate correspondence earlier that day a highways witness would no longer be called on the basis BDC had not identified a refusal reason and WCC was not defending its position at the event.
11. BDC's inaction led to unnecessary certainty regarding the nature of its case and evidence that may have been required to be heard in relation to this at the event. This amounted to unreasonable behaviour but did not lead to wasted expense by the applicant for the following reasons: the witness was not ultimately required at the event; the additional work commissioned by the applicant, including correspondence and rebuttals, were in response to the request from WCC, not BDC and, in any event, would have been required to justify the applicant's position in light of any finding I needed to make in my main decision; direct correspondence between BDC and the applicant on this matter was more limited, such that it could be defined as 'de minimis'; and

discussion at the Hearing, which took place in connection with points of clarification and the content of a planning obligation, was short in both instances and did not unduly prolong the Hearing.

New Claim Made Orally at the Hearing

12. Although BDC's oral evidence at the Hearing and the BDCSoC did not identify where the site and/or proposal would be visible from, this is detailed in the BDCOR. Prior to the event the main parties also agreed upon viewpoints for my site visit. Ultimately, it was for BDC to decide if it needed representation at the Hearing by a landscape expert. Furthermore, having regard to the evidence of each party and considering the appeal site in its context, I am satisfied BDC clearly substantiated its reason for refusal.
13. In my main decision, I disagreed with the appellant's evidence and arrived at similar conclusions to BDC regarding the effect of the proposal on the character and appearance of the site and its surroundings, including the rural setting of Stoke Prior. In doing so, I found the site to only be visible from limited public vantage points, reasonably well contained, and I noted its relationship with existing built forms, adjacent roads, and the railway line. However, I did not find this to visually isolate the site from the countryside or absolve the proposal of any harmful effects. As such, there can be no doubt that BDC did not act unreasonably in defending its second reason for refusal at the Hearing.
14. In terms of BDC's fourth reason for refusal regarding the effect on the use of Best and Most Versatile Agricultural Land (BMVAL), the SoCG clearly sets out an agreed position that there are no relevant policies in the development plan dealing with the loss of such land. Furthermore, there is also agreement there would not be significant loss of BMVAL as referred to in the Framework. In my main decision, I also reached these conclusions. It should therefore have been clear to BDC that it no longer had any grounds to substantiate its reason for refusal, and the applicant would have expected the reason to be withdrawn. The continued defence of the appeal on such grounds therefore constitutes unreasonable behaviour.
15. Turning to wasted expense, the applicant's planning consultant clearly sought to resolve this matter through correspondence with BDC, some preparation will have been necessary for the Hearing, and the presentation of evidence in relation to my questions required use of Hearing time. However, the additional work required to produce the relevant aspect of the SoCG and thereafter can be regarded as 'de minimis'. In fact, the applicant quickly and succinctly responded to my questions and the points made by BDC at the event, without wasting time and therefore expenditure.

Worcestershire County Council

16. The application is based on the following: the consultation responses by WCC to the planning application dated 21 September and 22 November 2022 did not raise objections to or recommend refusal for highways issues or the absence of a legal agreement related to the proposal; WCC has introduced a new reason for refusal at a late stage, addressing circumstances where home to school travel is not provided through the appeal; both the above responses state home to school transport costs would not be payable given walking distances to schools from the site, and contributions sought only apply to community transport and active travel; WCC's appeal response, dated 26 September 2023,

does not provide any justification for the school transport contribution, but contains contradictory amounts for the contribution and the circumstances on the ground regarding school walking routes; and WCC subsequently did not provide methodology for the contributions sought, despite being requested, which delayed production of a legal agreement.

17. The response dated 26 September 2023 does not contain contradictory amounts, as there is only one set of amounts referred to. However, despite WCC's thorough internal consultation process, in its responses to the planning application it did not identify any harm resulting from the proposal or the need for any contribution toward home to school travel. WCC state this was an omission from the responses due to interpretation of internal advice about school travel. Nonetheless, it should have been apparent at that time to WCC why existing walking routes to the Middle and High Schools are not sufficiently safe for the use by students. Moreover, its concerns relate to the narrow nature of the footway and the absence of streetlighting in Hanbury Road, and the crossing point at its junction with the A38 Redditch Road, but there is no evidence before me to suggest conditions have changed on the ground since planning application responses were sent to BDC.
18. In my main decision it was not specifically necessary for me to engage in discussion on the extent of the contributions sought, but I indicated they satisfied the requirements of Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 (CIL Regulations) and Framework paragraph 57. Nevertheless, having regard to provisions of the development plan, national planning policy and other material considerations, the proposal should not have been permitted.
19. The applicant submitted his case, which included a detailed analysis of the policy context and reappraisal of existing evidence presented through the planning application. This included a new report as to the education impact of the proposal, which referred to home to school travel. WCC subsequently submitted new concerns as to the walking route for schools, which necessitated subsequent rebuttals by specialist consultants and the applicant's planning consultant. Had WCC's application responses correctly set out its position on home to school travel then the applicant may have been able to address such matters during determination of the planning application; approach the appeal differently, including presentation of his evidence; or not pursue the appeal.
20. Consequently, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and that a partial award of costs is justified against WCC in respect of the applicant's defence of the matters referred to in WCC's appeal representations regarding contributions for home to school travel.

Costs Order

21. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Worcestershire County Council shall pay to Mr Brynley Little (Your Land Partner Ltd), the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in defending his case regarding the home to school contributions sought in connection with the appeal proposal; such costs to be assessed in the Senior Courts Costs Office if not agreed.

22. The applicant is now invited to submit to Worcestershire County Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Paul Thompson

INSPECTOR

Richborough