



Appeal Decision

Hearing held on 3 December 2024

Site visit made on 4 December 2024

by B Davies MSc FGS CGeol

an Inspector appointed by the Secretary of State

Decision date: 3rd February 2025

Appeal Ref: APP/H1840/W/24/3346257

Land off Bretforton Road, Badsey, Evesham, WR11 7XQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Lone Star Land against the decision of Wychavon District Council.
 - The application Ref is W/23/02227/OUT.
 - The development proposed is outline planning application for the erection of up to 35 residential dwellings and associated infrastructure (all matters reserved except for access).
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Decision

1. The appeal is allowed and planning permission is granted for outline planning application for the erection of up to 35 residential dwellings and associated infrastructure (all matters reserved except for access) at Land off Bretforton Road, Evesham, WR11 7XQ in accordance with the terms of the application, Ref W/23/02227/OUT, subject to the conditions in the attached schedule.

Preliminary Matters

2. The application to which the appeal relates was submitted in outline form with all matters reserved except for access. Plans for determination are therefore the site location plan and those relating to access. An indicative layout and other plans were submitted with the planning application, but these are for illustrative purposes only and I have not relied upon them.
3. Prior to the Hearing, the Council confirmed that its reasons for refusal had been overcome subject to adequate provision for planning obligations. A signed planning obligation in the form of an agreement pursuant to section 106 of the Town and Country Planning Act 1990 (s106) was submitted on 12 December 2024.
4. The South Worcestershire Development Plan is currently being revised. Consultation has been undertaken under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012. Both of the main parties agreed that the emerging plan should attract little to no weight at the current time and it was confirmed at the Hearing that there were no emerging policies that I should take into account.
5. It was also confirmed that permission should be in the name of Lone Star Land and reference to the representative who was also named on the original application form is not required.

6. Two recent appeal decisions were introduced at the Hearing containing analysis on matters relating to, among others, housing land supply, agricultural land and Biodiversity Net Gain (BNG). There were no objections to my acceptance of these and I have had regard to them when coming to my decision.
7. I requested a copy of the Education Planning Obligations Assessment (5 September 2024), which was missing from appeal submissions. It was confirmed that the same document had been published on the Council's website in a timely manner and I am satisfied that there is no prejudice caused to other parties in my late receipt of this document.
8. A revised National Planning Policy Framework (the Framework) was issued on 12 December 2024, after the hearing but before the decision was issued. The main parties were given the opportunity to comment on the implications of this for their cases. References to the Framework below relate to the latest version.
9. The main parties agree that the 5-year housing land supply updated according to the new Framework is approximately 1.1 years and I have nothing before me that would lead me to a different conclusion.
10. In accordance with footnote 8 of the Framework, this means that the relevant local policies are out-of-date. In these circumstances, Policy SWDP1 of the South Worcestershire Development Plan (2016) (DP) states that permission should be granted unless material considerations indicate otherwise, taking into account whether the adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework. I have therefore assessed the proposals against both the policies in both the DP and the Framework.

Main issues

11. Notwithstanding the Council's concession that any harm to the countryside and landscape would be outweighed by the benefits of the provision of housing, these issues continued to be raised in objections from interested parties. I therefore consider the main issues to be:
 - whether the location is suitable having regard to policies for development of housing in the countryside
 - the effect on the character of the landscape and visual impacts.

Reasons

Location in the countryside

12. The application site lies beyond the development boundary of the village of Badsey. Policy SWDP 2 of the DP defines this as 'open countryside' and places strict controls on the development of housing in these areas. The proposal does not meet any of the exceptions listed in SWDP 2(C) and is therefore in conflict with this policy.
13. The stated purpose of the policy is, in part, to safeguard the open countryside. The development would lead to the partial loss of a large agricultural field, which would reduce the extent and openness of countryside, albeit this is to a small extent.

There would be encroachment into the countryside from the development but a significant distance remains to separate the villages.

14. The supporting text to Policy SWDP 2 also explains that sites in the countryside can be less sustainable because they often have limited access to local services and employment opportunities. I observed that the site is within walking distance of the facilities, services and public transport options available in Badsey. I therefore find no harm from this aspect of the location in the countryside.
15. The appeal site is beyond the development boundary and construction of houses at this location is in conflict with Policy SWDP 2 of the DP. Paragraph 187 of the Framework states that decisions should recognise the intrinsic character and beauty of the countryside and loss of countryside would also conflict with this. However, for the reasons above, I consider the harm from these conflicts to be small.

Character of the landscape and visual impacts

16. The site is identified as the Principal Village Farmlands Landscape Type in the Worcestershire County Council Landscape Character Assessment (2012). The nucleated character of settlements and the arable land use are identified as Primary Characteristics of this landscape type. Secondary and tertiary characteristics include boundary hedgerows, rolling topography and groups of trees. The site and wider area are not subject to any statutory or non-statutory landscape designations.
17. Bretforton Road is characterised by modern ribbon development extending east towards the appeal site punctuated by development at depth, such as that at adjacent Maybush Gardens. The nucleated character of the village is not apparent at this location and would not be further harmed by the development.
18. An arable field would be lost as a result of the development. However, the modest scale of the project means that the overall harm to the predominantly agricultural landscape which surrounds the site would be small.
19. There would be partial removal of the hedgerow along the main road to provide access to the site. However, a programme of landscaping is proposed, which would include additional hedgerow planting along currently fenced or unmarked boundaries. For this reason, I am satisfied that there is no overall harm to this landscape feature.
20. The site is clearly visible from the Bretforton Road, with longer views across the site to distant hills. Although layout of the site is a reserved matter, introduction of houses at this location would inevitably lead to a visual impact.
21. However, when leaving the village the impact would be constrained to the length of the site boundary, from which views experienced by vehicle users would be fleeting. The existing footpath on the opposite side of the road is unlikely to be heavily used given that it serves very few houses, which limits the visual impact on the public.
22. When approaching from Bretforton, the houses would be initially screened by a vehicle repair workshop and would then be viewed against a backdrop of modern development. The visual impacts from this direction would be negligible.

23. The illustrative masterplan shows dwellings at a low density per hectare set back from the boundaries, which would allow for landscape buffers to provide screening and soften views of the development over time. While the plans are indicative, it has been demonstrated that options to mitigate the visual effects are deliverable in principle.
24. I have noted concerns raised by interested parties regarding the visual impacts on the occupants of surrounding houses, including a loss of openness. Ensuring that there are no unacceptable effects on the living conditions of existing occupants is an issue to be addressed at the reserved matters stage when the layout of the site is formalised.
25. The development would result in the loss of a characteristic arable field and long-distance views from a short stretch of road. The proposal is therefore contrary to Policies SWDP 21 and SWDP 25 of the DP, which together require that key landscape features and the character of settlements are protected. However, for the reasons above, these impacts would be small.
26. Paragraph 135 of the Framework requires that decisions are sympathetic to the landscape setting. Paragraph 187 states that valued landscapes should be protected and enhanced. The surrounding landscape does not have specific protection and I have nothing before me to suggest that it should be treated as a 'valued' landscape. It remains the case that the harm is small when assessed against the policies in the Framework.

Other considerations

Provision of housing, including affordable housing

27. The development would deliver up to 35 houses against a backdrop of a very low housing land supply figure.
28. 40% of the housing would be affordable and provided on site, secured through the s106 agreement. The Council has confirmed that there is a pressing local need for such housing, quoting the Strategic Housing Market Assessment (2021 update). This includes the need for housing for people with a local connection, which would be provided through the s106. The proposal therefore meets the requirements of Policy SWDP 15 and paragraphs 66 and 129 of the Framework, which require that the mix of affordable housing meets identified local needs.

Biodiversity Net Gain

29. A BNG of over 10% is proposed, including an overall increase in hedgerow units. This is consistent with Policy SWDP 22, which requires that development should be designed to enhance biodiversity and paragraph 187 of the Framework, which requires that development minimises impacts and provides net gains for biodiversity.
30. I note that there is no specific policy requirement to deliver 10% gain for applications made prior to February 2024, as in this case. For this reason, and accounting for the modest size of the development, the commitment to BNG would be a benefit.

Contribution to the local economy

31. The development would create construction jobs and support local building trades, albeit for a temporary period. Future occupants of the development would likely support businesses and facilities within the local area. These benefits are consistent with the economic objectives in paragraph 8 of the Framework.

Section 106 agreement

32. The signed s106 agreement secures contributions towards built sport, formal sports, healthcare, and onsite and offsite site public open space. Provision is also made for education, early years, bus stop infrastructure, community and school transport, in line with local policy requirements. A contribution to relocate the 30mph/50mph speed limit further from the village is secured.
33. None of these contributions are in dispute between the main parties and the Council has provided evidence, including detailed Community Infrastructure Levy (CIL) compliance statements, that justify the requirements and amounts sought.
34. It is clear from the submitted evidence that all the provisions and contributions set out within the planning agreement are necessary to make the development acceptable in planning terms, are directly related to the development and are fairly and reasonably related in scale and kind to the development proposed. They therefore satisfy the tests within Regulation 122 (2) of the Community Infrastructure Levy 2010 and paragraph 57 of the Framework, and I take them into consideration in reaching my decision.

Other matters

35. Concerns were raised about the cumulative impacts of new development on local utilities, with reporting of frequent power cuts and sewerage problems. However, there are no objections from the utility providers and, in the absence of these, this is not something that I can give weight to as part of the planning appeal. I am also mindful that the development would make a pro rata contribution to the upkeep of these services.
36. I note concerns raised about a potentially disproportionate amount of recent housing development in Badsey. However, there is no spatial policy before me which imposes a ceiling on housing numbers. I am also mindful of the significant shortfall of housing in the district.
37. Approximately 1.2 ha 'best and most versatile land' (BMV) would be lost. The appellant has provided a site-specific analysis of the land quality prepared by specialists and, in the absence of substantial evidence to the contrary, I must accept their conclusions. Policy SWDP 13H applies to loss of more than 2 ha of BMV land and there is therefore no conflict with this policy. Paragraph 187 of the Framework requires that the economic and other benefits of BMV land must be recognised. Given the very small area to be lost, I conclude that the harm is negligible and not a matter that is determinative.

Highways

38. The number of trips that this development would add to the network is small and would not lead to an unacceptable level of harm or congestion. The s106 secures contributions towards school and community transport, which should reduce the

number of car trips. A condition is also imposed for cycle parking and a Travel Welcome Pack promoting sustainable forms of access.

39. I am in no doubt that Bretforton Road is very busy and used by large vehicles, making safe pedestrian access important. There is a pavement on the opposite side of Bretforton Road leading to the village, which I observed can be reached safely from the site. The proposal would also extend a footpath serving the development to link with Maybush Gardens, providing further options. In addition, the development would make a contribution towards moving the speed limit extent out of the village. I am satisfied that safe pedestrian access to the village can therefore be secured.
40. I observed that visibility from the proposed access in both directions was good and safety would no doubt be further improved by extending the 30-mph zone. Visibility splays and their maintenance have been agreed with the Council and I am satisfied that safe vehicular access can be achieved.
41. Policy SWDP 4 requires minimisation in demand for travel, genuinely sustainable travel choices and that road safety is addressed, which have all been met. Safe and suitable access would be achieved for all road users, as required by paragraph 115 of the Framework and there would not be an unacceptable impact on highway safety or severe impacts on the road network, as required by paragraph 116. The proposal does therefore not conflict with local or national highway policies.

Provision of education

42. A revised assessment of primary school accommodation (September 2024) was submitted during the appeal, which concluded that expansion of Badsey First School is required and the lack of options to deliver this led to this matter originally being a reason for refusal.
43. However, the Council is now satisfied that the expansion can be delivered in a timely manner if contributions are received as houses are developed. Having reviewed and heard the evidence provided by the Council's education specialist, I am satisfied that the evidence base for concluding that sufficient, timely school places is both robust and cumulative. Appropriate contributions are secured through the s106 agreement.
44. The assessment also concluded that if the current application is approved first there would be sufficient middle school places and a contribution would not be required. In the alternative, a contribution would be required to mitigate the impact of these developments. I see no reason to come to a different conclusion, and this is also satisfactorily addressed through the s106 agreement.
45. On this basis, the development would not conflict with Policies SWDP 2F and SWDP 7B, which require provision of appropriate infrastructure. Neither does the proposal conflict with paragraph 100 of the Framework which requires that great weight be given to the need to create, expand or alter the provision of education through planning decisions.

Conditions

46. I have considered the suggested conditions taking into account the discussions at the Hearing, the policies in the Framework and the advice given in the Planning

Practice Guidance. I impose all of them, amending some wording in the interests of conciseness, precision and enforceability. The numbers below relate to the corresponding condition in the schedule.

47. Conditions [1-2] for time limits and the provision of details on reserved matters are necessary because the application made is for outline permission.
48. I have imposed a condition [3] specifying the approved plans for reasons of certainty. As agreed at the Hearing, I have updated the drawing numbers and inserted dates for accuracy.
49. I have included pre-commencement conditions requiring the submission of a Construction Environmental Management Plan and a Construction Surface Water Plan [4-5]. These are necessary to ensure the provision of adequate facilities on-site, to control surface water and in the interests of highway safety during construction. I have also imposed a condition [6] to control working hours of construction to minimise the effect on the living conditions of local residents.
50. Condition [7] requires an archaeological scheme of investigation to ensure satisfactory investigation and recording of the site prior to commencement.
51. It is also necessary for a Landscape and Ecological Plan and Ecological and Enhancement Strategy to be approved prior to commencement [8]. Details of external lighting are secured at a later stage [9]. Condition [10] requires that trees and hedgerows are protected during construction. These are for the purpose of ensuring conservation and enhancement of biodiversity within the site, and to mitigate effects on the landscape.
52. Condition [11] requires full details of the provision of foul drainage to ensure appropriate disposal. A detailed scheme of site surface water drainage must be approved prior to construction, implemented prior to occupation and thereafter maintained [12]. Both conditions are necessary to ensure that the risk of flooding is not increased and water disposed in a sustainable manner. I have removed the requirement for a Construction Surface Water Management Plan because adherence to this is secured elsewhere.
53. In the interest of highway safety I attach conditions requiring an approved scheme of highway works, implementation and maintenance of this [13-14]. I have removed reference to the Speed Limit Relocation (25182-01D-4) plan because a contribution towards this is secured as part of the s106 and it is not the appellant's responsibility to relocate the speed limit.
54. The Council requested that details of generation of renewable energy are provided prior to commencement of the development [15]. The appellant raised no objections to this being sought at an early stage and I have therefore imposed it. The purpose of this condition is to ensure accordance with local policies that safeguard national resources.
55. A scheme for cycle parking and a Travel Welcome Pack promoting sustainable forms of access are necessary to reduce vehicles movements and promote sustainable access [16-17].

Planning balance

56. The provision of houses in a sustainable location, including a commitment to an appropriate mix of locally needed affordable housing, is a matter of very substantial weight when measured against both local and national policies. The contribution to the local economy and biodiversity gains of over 10%, are benefits of limited weight given the modest scale of the development.
57. I have found that there would be a small degree of harm from loss of countryside, and to the character and appearance of the landscape, in conflict with local and national policies. These are adverse impacts of limited weight given the degree of loss.
58. The housing land supply is significantly below 5 years. In these circumstances, the DP requires that development is granted, taking into account an assessment against Framework policies, unless material considerations indicate otherwise. Paragraph 11(d)(ii) of the Framework is engaged and I conclude that the adverse impacts would not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework, nor are there any other material considerations which would lead me to a different conclusion.

Conclusion

59. The appeal is allowed.

B Davies

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission. The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.
- 2) Details of the appearance, landscaping, layout, and scale ("the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 3) The development hereby permitted shall be carried out in accordance with the following drawings:
 - Site location plan (PA_01-B, May 2023)
 - Site access (25182-01d-E, November 2024)
- 4) No development shall commence until a Construction Environmental Management Plan has been submitted to and approved in writing by the local planning authority. The Statement shall include, but not be limited to:
 - a) Measures to ensure that vehicles leaving the site do not deposit mud or other detritus on the public highway.
 - b) Details of site operative parking areas, material storage areas and the location of site operatives' facilities (offices, toilets etc).
 - c) The hours that delivery vehicles will be permitted to arrive and depart, and arrangements for unloading and manoeuvring.
 - d) Details of any temporary construction accesses and their reinstatement.
 - e) A highway condition survey, timescale for re-inspections, and details of any reinstatement.
 - f) Details of site operatives' parking, material storage and the positioning of operatives' facilities.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

The measures set out in the approved plan shall be carried out and complied with in full during the construction of the development hereby approved.

- 5) No development shall commence until a Construction Surface Water Management Plan has been submitted to and approved in writing by the local planning authority. The plan shall:
 - a) Explain how surface water will be managed during the construction phase, including site clearance and stripping.
 - b) Include drawings of any temporary drainage systems
 - c) A timeline of construction
 - d) Measures to mitigate the risk of pollution (including silt) of the water environment and offsite flood risk

- e) Detail how the approved permanent surface water drainage system shall be remediated during the construction phase.

The development shall be carried out in accordance with the Construction Surface Water Management Plan.

- 6) Clearance or construction works and deliveries shall take place only between 08.00 and 18.00 on Monday to Friday, between 08.00 and 13.00 on Saturday and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 7)
 - 1) No development shall commence until a programme of archaeological work, including a Written Scheme of Investigation, has been submitted to and approved in writing by the local planning authority. The scheme shall include:
 - a) an assessment of significance and research questions
 - b) The programme and methodology of site investigation and recording.
 - c) The programme for post investigation assessment.
 - d) Provision to be made for analysis of the site investigation and recording.
 - e) Provision to be made for publication and dissemination of the analysis and records of the site investigation.
 - f) Provision to be made for archive deposition of the analysis and records of the site investigation.
 - g) Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.
 - 2) The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition 7(1) and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.
- 8) No development shall commence until a Landscape and Ecological Management Plan (LEMP) and Ecological and Enhancement Strategy have been submitted to and approved in writing by the local planning authority. The LEMP shall be based on the Outline Biodiversity Net Gain Report (FCR Environment and Design Ltd, March 2024), and shall include:
 - a) Details (type and location) of wildlife boxes and hibernacula;
 - b) Description and evaluation of the features to be managed;
 - c) Ecological trends and constraints on site that might influence management;
 - d) Aims and objectives of management;
 - e) Appropriate management options for achieving aims and objectives;
 - f) Prescriptions for management actions;
 - g) Preparation of a work schedule, including an annual work plan capable of being rolled forward over a five-year period and for a minimum of 30 years thereafter;

- h) Details of the body or organisation responsible for implementation of the plan;
- i) On-going monitoring and remedial measures.

The development shall be carried out, managed and maintained in accordance with the LEMP.

- 9) Details of any external lighting (other than domestic lighting within an approved dwelling curtilage) shall be submitted with the reserved matters application.
- 10) No development shall commence, including site clearance, preparatory work, deliveries, vehicular movements and erection of site huts, until temporary fencing has been erected in accordance with British Standard BS 5837:2012 (Trees in relation to design, demolition and construction – Recommendations) (or an equivalent British Standard if replaced).

Any alternative fencing type or position not strictly in accordance with BS 5837:2012 must be agreed in writing by the local planning authority prior to the commencement of development.

The protective fencing shall remain in place until the completion of development or unless otherwise agreed in writing with the local planning authority. Nothing (including soil) should be stored or placed, nor any ground levels altered, within the fenced area without the written consent of the local planning authority.

There shall be no burning of any material within 10 metres of the extent of the canopy of any retained tree/hedge.

- 11) No development shall commence until details of a scheme for the provision of foul drainage has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details, timetable and programme.
- 12) No works associated with the site drainage shall commence until a scheme for a surface water drainage strategy has been submitted to and approved in writing by the local planning authority. The scheme shall:
 - a) Detail provision for the sustainable disposal of surface water within the site so as to prevent its discharge onto the highway
 - b) Detail surface water drainage measures, including for hardstanding areas
 - c) Conform with the non-statutory technical standards for SuDS (Defra 2015) (or an equivalent if this is replaced) and the Flood Risk Assessment (Enzygo, March 2024).
 - d) Provide detailed design drawings for all drainage assets and run off treatment proposals for surface water drainage. Exceedance flows should not be directed to property or private land.
 - e) Detail future maintenance of any communal surface water drainage assets.
 - f) Proposals for informing future homeowners or occupiers of the arrangements for maintenance of communal surface water drainage assets.

The scheme shall be implemented prior to the first use of the development and the drainage thereafter maintained in accordance with the agreed scheme.

- 13) No development shall commence until details of the site access to Bretforton Road have been submitted to the local planning authority. The scheme must be in broad accordance with drawings subject to any minor modifications identified during the detailed design and Road Safety Audit processes.
- Site Access Location and Visibility Splays (25182-01D, January 2024)
 - Site Access and Potential Southern Footway (25182-01-3D, January 2024)

The development shall not be occupied until the scheme has been approved in writing by the local planning authority and the approved proposals have been implemented.

No dwelling shall be occupied until visibility splays are provided from a vertical point 1.05m above carriageway level at the centre of the site access and 2.4m back from the near side edge of the adjoining carriageway (measured perpendicularly), for 118m west and 106m east, measured along the nearside edge of the adjoining carriageway (vertical off set of 0.6m), as shown on Site Access Location and Visibility Splays (25182-01 D, January 2024).

Nothing shall be planted, erected and/or allowed to grow on the triangular areas of land so formed which would obstruct the visibility described above.

- 14) No development shall commence until details of renewable and/or low carbon energy generation measures for dwellings have been submitted to and approved in writing by the local planning authority. The measures shall contribute to at least 10% of the predicted energy requirements of the development. The details shall include:
- a) the overall predicted energy requirements of the approved development;
 - b) the predicted energy generation from the proposed renewable/low carbon energy measures; and
 - c) an implementation timetable for the proposed measures.

The development shall be carried out in accordance with the approved details.

- 15) No dwelling shall be occupied until a scheme for the provision of sheltered and secure cycle parking has been submitted to and approved in writing by the local planning authority, and that scheme implemented. The scheme must comply with the Council's adopted cycle parking standards. The approved cycle parking shall thereafter be kept available for the storage of bicycles.
- 16) No dwelling shall be occupied until a Travel Welcome Pack promoting sustainable forms of access to the development has been submitted to and approved in writing by the local planning authority. The pack shall be provided to each household at the point of occupation.

APPEARANCES

FOR THE APPELLANT:

Jason Tait, Director, Planning Prospects Limited

Neil Tiley, Senior Director, Pegasus Group

Jeremy Peachey, Chairman, Pegasus Group

FOR THE LOCAL PLANNING AUTHORITY:

Carl Brace, Development Manager

Rachel Kiernan, Worcestershire Education Services

INTERESTED PARTIES:

Mr and Mrs Eden, Neighbours

Mrs Close, Councillor, Badsey & Aldington Parish Council

DOCUMENTS SUBMITTED AT THE HEARING

- Appeal decision APP/H1840/W/24/3346731 (25 November 2024)
- Appeal decision APP/H1840/W/24/3340903 (23 October 2024)
- Education Planning Obligations Assessment (5 September 2024)
- Badsey Pending Planning Applications (3 December 2024)

Richborough