



Appeal Decision

Inquiry held on 13-16 December 2022 and 20-21 December 2022

Site visits made on 12 December 2022 and 21 December 2022

by L Fleming BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th March 2023

Appeal Ref: APP/H1840/W/22/3305934

Land to the north of Droitwich Spa, Droitwich, WR9 ONU, 388907, 265425

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Beechcroft Land Ltd & Henry Bouskell C/O Trustees of the Wimbush Droitwich Settlement against Wychavon District Council.
 - The application Ref W/22/00201/OUT, is dated 3 February 2022.
 - The development proposed is outline planning application for the erection of up to 102 dwellings, new vehicular and pedestrian access, and associated works. All matters reserved except for access.
-

Decision

1. The appeal is dismissed, and planning permission is refused.

Background, Preliminary Matters and Main Issues

2. The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission. However, the Council resolved that had it been in a position to determine the application, it would have refused planning permission for a number of reasons (putative reasons). These are reflected in the main issues below.
3. The application was submitted in outline with approval being sought for detailed matters relating to the access only. I have dealt with the appeal on that basis, treating the plans as illustrative only except where they relate to the access.
4. A Case Management Conference was held on 31 October 2022. The purpose of the conference was to provide a structure for the ongoing management of the case and the presentation of evidence. There was no discussion on the merits of the respective cases.
5. An executed planning obligation and associated deed of variation¹ were submitted after the close of the Inquiry. The planning obligation was considered in draft form through a round table session at the Inquiry. This provides for 40% of the proposed dwellings as affordable housing, community transport, bus infrastructure, healthcare, off-site sports pitches and leisure and off site public open space contributions. It also secures on-site open space

¹ Core Document 9.8

- provision and maintenance, ecological areas necessary to secure a minimum of 20% biodiversity net gain (BNG) and an area of land between the site boundary and The Forest to be retained as grazing land (the grazing land).
6. Although disputed and **the substance of one of the Council's putative reasons** for refusal, the obligation also provides for education contributions. However, this is subject to detailed wording within the obligation which makes clear that the education contributions will only be provided if found to meet the tests set out in Regulation 122(2) of the Community Infrastructure Levy Regulations (2010) (as amended) in my decision. However, even if I found all the obligations including education met the relevant tests, this would not have altered the outcome of the appeal. Therefore, I have not needed to reach a definitive conclusion on the matter. For the avoidance of doubt, I confirm I have determined the appeal on the basis that all obligations sought would be met, including education and I have taken them all into account in my planning balance.
 7. In advance of the Inquiry the parties agreed that the five-year housing land supply position is in the range of 3.52 and 3.68 years resulting in a shortfall of between 703 and 791 homes. Both parties also agreed that even taking account of the Council's **best or worst case** and the associated extent of the shortfall, the delivery of the homes proposed would be a substantial benefit. I have no reason to doubt the agreed position. Therefore, it has also not been **necessary for me to assess in detail the Council's housing land supply**. However, evidence was put to me that even with this common ground, the weight to be afforded to the agreed substantial benefit should be tempered. I have dealt with that evidence in my overall planning balance and conclusion.
 8. Therefore, having regard to these preliminary matters and against this background, the main issues are:
 - The effect of the proposal on the character and appearance of the area having particular regard to the landscape.
 - The effect of the proposal on heritage assets particularly the setting of the grade I listed Church of St Mary (the Church) and the grade II Listed Lych Gate (the lych gate).
 - Whether the site would be a sustainable location for the proposed development having regard to the development plan and national policies.

Reasons

Character and appearance

9. The appeal site is agricultural land to the north of the main town² of Droitwich Spa. It is currently used for grazing and is on the east side of the A442 Kidderminster Road (the A442). The site wraps around Doverdale Park which comprises low height, modest mobile homes in use as permanent dwellings which are arranged in a formal rectangular grid layout around an access road from the A442. Through its scale, positioning surrounded by fields and the modest size of the properties, Doverdale Park has an overall simple modest detached character.

² As identified in the Council's settlement hierarchy

10. To the north of the appeal site is The Forest, a narrow lane from the A442 which terminates roughly where it meets the Worcester – Birmingham Railway Line (the railway line) which extends along the eastern site boundary. The Forest is made up of mainly spaciouly arranged wayside dwellings, a parish hall and the Church of St Mary and associated structures including the lych gate. The buildings on The Forest are of a variety of styles and age and are positioned facing but varying distances from the road with varied spaces between them, giving it a varied, wayside and spacious character.
11. The Forest, Doverdale Park, the Hampton Lovett Industrial Estate (on the west side of the A442) and other dispersed properties nearby all form part of a small settlement known as Hampton Lovett.
12. An appeal relating to a similar scheme was dismissed in 2020³ (the 2020 scheme). However, whilst the site context may be the same, the evidence and the scheme before me is different in many ways. A comparative plan⁴ shows, very different areas of the appeal site which would be developed and left undeveloped in both schemes. The 2020 scheme was for 144 dwellings, whereas the scheme before me is for 102 dwellings with a 31% reduction in the developable area. The scheme before me includes an area of retained grazing land which would provide a much larger undeveloped gap between the proposed houses and the properties on The Forest than was proposed in the previous scheme. For these reasons, the illustrative layouts are very different in both schemes.
13. Nevertheless, whilst the 2020 scheme is clearly very different to the scheme before me, I have had regard to it and the previous Inspectors decision (the 2020 appeal decision) where relevant in my reasoning below. However, given the significant differences, I am not bound by it and have considered the appeal scheme before me on its merits.

Landscape effects

14. The appeal site is mainly flat except for where it falls towards the river valley closest to Droitwich Spa. The woodland beyond the railway line limits visual connectivity with the wider landscape to the east and the vegetation to the west restricts views towards the Hampton Lovett Industrial Estate on the opposite side of the A442. Consistent with the 2020 appeal decision I find the appeal site forms part of a well contained land parcel on the east side of the A442 between Droitwich Spa, The Forest and the railway line. I refer to this below, as the immediate landscape.
15. The proposed development would be within the Severn and Avon Vales Landscape National Character Area (NCA 106)⁵ its key characteristics being among other things, flat and gently undulating landscapes, a wooded impression provided by frequent hedgerow trees parkland and remnants of formerly extensive chases and royal forests, pastoral fields and market towns and large villages located along rivers with their cathedrals and churches prominent features in the landscape. NCA 106 covers an extensive geographical area such that the quality and sensitivity of the landscape in different parts of it varies considerably.

³ Appeal Reference APP/H1840/W/18/3218814 (Core Document 7.1)

⁴ Core Document 14.1

⁵ Core Document 5.1

16. The Worcestershire Landscape Character Assessment Technical Handbook (2013)⁶ and the Worcestershire Landscape Character Assessment Supplementary Planning Guidance (2012)⁷ taken together comprise the latest Landscape Character Assessment (LCA). They identify the appeal site as being Principal Timbered Farmlands Landscape Type (PTFLT) within the Mid-Worcestershire Forests Regional Character Area (MWFRCA).
17. The MWFRCA covers a large proportion of the County forming part of extensive royal forests that once extended across the central part of the West Midlands. The existing remnants of these forests and widespread presence of hedgerow trees and small groups of trees give the regional character area a wooded appearance.
18. The PTFLT character description says these are rolling lowland landscapes with occasional steep sided hills and low escarpments. They have a small scale, wooded, agricultural appearance characterised by filtered views through densely scattered hedgerow trees. It notes, these are complex, in places intimate, landscapes of irregularly shaped woodlands, winding lanes and frequent wayside dwellings and farmsteads. Furthermore, it says the PTFLT is characterised by a mosaic of agricultural land cleared directly from woodland, on a piecemeal basis, together with land enclosed from former localised areas of open fields, resulting in a dispersed pattern of farmsteads and wayside cottages and lack of strong settlement nuclei.
19. The primary key characteristics of the PTFLT are hedgerow boundaries to fields, ancient wood character and a notable pattern of hedgerow trees, predominantly oak. Secondary and tertiary characteristics noted include, small scale landscape, views filtered by trees and hedging and a dispersed settlement pattern. The description makes clear the PTFLT has a small scale wooded, agricultural appearance with the built form referenced limited to farmsteads and wayside dwellings or cottages and it clearly notes a lack of strong settlement nuclei.
20. Although not considered in detail in the 2020 appeal decision, the LCA also sub-divides regional character areas into Landscape Development Unit's (LDUs) which are broken down further into Land Cover Parcels (LCPs). The appeal site falls within the Westwood Principal Timbered Farmlands Landscape Development Unit (WTFLDU). This is described as a rolling lowland topography, with relic patches of ancient woodland often associated with hedgerow oaks and streamside tree cover. Farmsteads and groups of wayside dwellings with a moderate to high level of dispersal and small to medium field pattern are also noted.
21. The appeal site is within two LCPs. LCP MW118.2f (LCP 2f) forms part of the strategic gap and a river valley adjoining Droitwich Spa and LCP MW118.2c (LCP 2c) which is relatively flat and extends up to the Church and The Forest and also includes the Hampton Lovett Industrial Estate. LCP 2c is described as underlain with mudstone, woodland is noted as the field origin but is predominantly pastoral and is said to have a **'moderate' urban impact**. LCP 2f is described as fields, meadow in origin and predominantly pastoral with urban

⁶ Core Document 5.2.1

⁷ Core Document 5.2

impact identified as 'None'. LCP 2c is identified as being poor condition and having a low landscape sensitivity⁸.

22. There is no substantive evidence to suggest either LCP has changed significantly since the LCA was completed. The detail in the LCA on each LCP was informed by the regional and local landscape character area assessments as well as site survey data gathered at the time of the assessment. Overall, I find LCP 2c and LCP 2f, including their boundaries, fit for their purpose. Indeed, their noted characteristics are consistent with my own site observations.
23. I agree that LCP 2c is the most relevant as the parameter plan⁹ would ensure all the proposed dwellings would be within this parcel. I note the maps in the LCA show the Landscape Condition of LCP 2c as **"Poor" and Landscape Sensitivity as "Low"**. The LCA also states that areas with low sensitivity may be regarded as least sensitive to change and therefore most able to accommodate development.
24. However, the appeal site and its immediate landscape is only a small part of LCP 2c which covers a much larger geographical area. Whilst, I accept the appeal site and its immediate landscape has a notably lower sense of openness, calmness, and remoteness than the areas of open countryside to the north and east outside of LCP 2c, they are still more open, more calm and more remote when compared to the land on the west side of the A442 which has a very different busy industrial character. The LVA also notes¹⁰ the change in character within LCP 2c, either side of the A442.
25. In my view, even taking into account the simple modest detached character of Doverdale Park, the appeal site and its immediate landscape to the east of the A442 has an obvious different landscape character to the land within LCP 2c on the west side of the A442. This does not mean the LCA or the LCPs are not robust or fit for purpose, it is simply an inevitable variation within a geographical area which is proportionally large when compared to the much smaller appeal site and its immediate landscape.
26. Therefore, I do not accept that the immediate landscape relevant to the appeal site within LCP 2c is poor quality or low sensitivity. Instead, the appeal site and its immediate landscape is pastoral land mainly bound by hedging. The boundary hedging and hedging in its immediate vicinity accommodates several mature trees including some oaks. There are also small-wooded areas around the site edges and along the railway line. The appeal site is positioned between parts of the settlement of Hampton Lovett and the edge of Droitwich Spa and adjoins Doverdale Park. Thus, the containment of the immediate landscape, grazing livestock and limited public access give the appeal site an agricultural, enclosed and quiet quality. Doverdale Park, has its own, simple modest character, which whilst in conflict with the character of the wider immediate landscape, through the scale of the buildings, its influence on the immediate landscape as a detracting feature is relatively low.
27. The character of the appeal site and its immediate landscape as a contained small scale agricultural landscape, with hedgerows, wooded areas with wayside

⁸ Core Document 5.2.1

⁹ Core Document 14.3

¹⁰ Core Document 1.9 (Appendices Plan EDP 4)

dwelling on the A442 and The Forest is consistent with that described in the PTFLT description. The immediate landscape also therefore shares many of the characteristics of NCA 106, the MWFRCA and the WPTFLDU. Having regard to this depth of information and my own assessment, I find the landscape relevant to the appeal site has a medium landscape value. Its agricultural and peaceful qualities could be easily eroded if faced with significant change and thus having regard to all this background, in my view it has a medium sensitivity.

28. Turning my attention to the effect of the proposal. Pastoral fields would be replaced with 102 homes, associated garaging, parking arrangements, roads and other hard surfacing and a network of open space. The site topography would be broadly unaltered and recreational opportunities would be enhanced, affording public access to parts of the immediate landscape. The proposed houses would be within LCP 2c, whereas open space and retained grazing land between The Forest and the proposed houses would be within LCP 2f. The proposed dwellings would be interspersed with open space and softened by planting and the retained grazing land and hedging around its edges.
29. I note the appeal scheme would also have a lower density than the 2020 scheme. I also note the grazing land would have an agricultural character which differs from open space which would be more manicured, with bins and benches etc. I accept the 2020 scheme would have resulted in the loss of some 1.5 hectares of grade 2 agricultural land whereas the appeal scheme before me would result in the loss of 0.06 hectares. However, the illustrative details before me show a completely different proposed layout to that considered in the 2020 decision.
30. I acknowledge, the proposed houses would be built at relatively low density when compared to other modern residential development. I note the illustrative details show the dwellings on the northern edge would be orientated with their front elevations facing The Forest partly intended to provide transition between The Forest and Doverdale Park in recognition of their contrasting form. I also acknowledge the proposal seeks to take opportunities for landscape gain as identified in the LCA through creating new wooded areas, hedgerow enhancement, tree planting and the use of materials prevalent in the local area. These enhancements, as well as the retained managed grazing land would accord with the relevant guidelines for the PTFLT.
31. However, irrespective of which specific individual properties comprise the settlement of Hampton Lovett, the proposal would clearly adjoin and appear as an extension to Doverdale Park. The illustrative details also show that through their orientation, the proposed dwellings, on the northern edge would also appear noticeably visually connected to The Forest. They would look directly towards them with a footpath connection through the retained grazing land.
32. When compared with the varied and spaciouly arranged properties along The Forest and the grid pattern low height dwellings at Doverdale Park, the illustrative details show a mix of comparatively compact terraced, detached and semi-detached two storey dwellings arranged around estate roads with side roads and parking areas¹¹. In my view the illustrative details show a suburban neighbourhood which would conflict with the pattern and character of Doverdale Park and The Forest. Even though there is already conflict between

¹¹ Core Document 1.3

Doverdale Park and The Forest, the proposal would close the gap between them and add more conflicting variation into the immediate landscape exacerbating the existing conflict.

33. Dispersed settlement pattern is only a tertiary characteristic for the PTFLT. However, the LCA advises¹² that individual dwellings could be accommodated within the dispersed settlement pattern as long as they do not occur in sufficient density to convert the pattern to wayside or clustered status. It goes on to say modern development favouring groups or clusters of new houses would not be appropriate in this landscape. The appeal scheme would go significantly beyond converting the pattern to wayside or clustered status, it would introduce 102 dwellings as a modern housing estate. This would be in place of small-scale pastoral fields which are enclosed and agricultural in character and would fundamentally change the immediate landscape character with the proposed housing estate becoming the dominant feature.
34. The proposal would therefore draw attention away from the PTFLT primary characteristics including notable pattern of hedgerow trees, predominantly oak, hedgerow boundaries to fields and wooded character. It would also erode the secondary characteristic including rolling lowland and organic enclosure pattern and introduce a form of development which would be at odds with the PTFLT character description.
35. Thus, the scheme would erode and detract from features (including primary characteristics) of landscape character in both the short and long term. These effects, together with the proposed conflicting form of development, would in my judgment result in moderate adverse effects on the immediate local landscape, which whilst softened over time, even after 15 years, would still remain moderate adverse.

Visual effects

36. The residents of Doverdale Park, particularly those occupying the perimeter properties, would have clear views of the scheme. Its overall scale, conflicting layout and form and the erosion of the agricultural landscape character would all be noticeable from these properties. These receptors would be highly sensitive.
37. However, the views of residents living on The Forest, and in properties on the A442 would be over the retained grazing land or open space with the proposed development some distance away. This is different to the 2020 scheme where the dwellings would have been much closer to some of these properties. Even so, these receptors would still see the proposed dwellings, and their difference in character and form to Doverdale Park and The Forest would be obvious as would the erosion of the landscape characteristics identified above. These receptors would have moderate sensitivity.
38. The proposed development would also be experienced when walking or driving along the extent of The Forest and from the A442 from its junction with The Forest travelling towards Droitwich Spa and back. However, buildings, hedging and trees along these routes would offer some screening and break up the views at specific points, more so along the A442. Furthermore, the experience

¹² Core Document 5.2.1 page 113

would be relatively short. I therefore find these receptors would have a low sensitivity.

39. However, The Forest also forms part of the Monarch's Way, a promoted recreational route. Recreational walkers using The Forest section of this route would be more sensitive to the urbanising effects on the rural landscape I have identified above, particularly as when viewed from The Forest, the scheme together with Doverdale Park would appear as a detached housing estate floating in agricultural countryside. These receptors would therefore have a medium sensitivity.
40. There are no public footpaths / bridleways crossing the appeal site and any views of the proposed development from the surrounding public footpath / bridleway (including Monarch's Way but excluding The Forest section) network¹³ would be limited by vegetation. This includes looking at the appeal site from higher land to the north and east of the immediate landscape, where the roofs of the proposed dwellings would be visible but would appear as part of Droitwich Spa. Furthermore, any rail passenger views would be partially filtered by the wooded embankment and fleeting. Thus, both rail and wider footpath and bridleway users, would not notice the conflicting layout and form and the erosion of the agricultural landscape character in the same way as the other receptors identified above. Therefore, users of the wider public footpath network excluding The Forest, and rail passengers as receptors, would both have a low sensitivity.
41. Thus, based on the illustrative details and having regard to the visual impact of the scheme on all these receptors, overall, I find the proposal would have a moderate adverse visual impact.

Valued landscape

42. The Council did not allege the appeal site was valued landscape in considering the 2020 scheme but now assert the appeal site would be valued landscape mainly due to the relationship of the landscape with designated heritage assets particularly the Church and having regard to updated guidance from the Landscape Institute¹⁴.
43. Paragraph 174 of the National Planning Policy Framework (the Framework) states decisions should contribute to and enhance the natural and local environment by among other things protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan).
44. **Having regard to the Landscape Institute's Technical Guidance Note on Assessing Landscape**¹⁵ I note the appeal site is in an area of landscape which does not have any statutory status. The proposal would also not involve any development on any land which is identified in the development plan as having any particular landscape quality. The land which would be developed is relatively flat pastoral countryside, which I have found to have a medium landscape value and a medium sensitivity.

¹³ References - 537 (B) (Monarchs Way), 522 (C), 538 (B)

¹⁴ Core Document 5.5

¹⁵ Core Document 5.5

45. The qualities I have identified above occur frequently in locations on the edges of settlements. The woodland in the locality is not ancient and there are no other natural designations affecting the site. Although part of the site is designated as strategic gap, this is functionally intended to ensure, a gap between Droitwich Spa and Hampton Lovett is retained, there is no substantive evidence to suggest this designation was justified due to any particular qualities of the immediate landscape relevant to the appeal site.
46. It is common ground that the appeal site and its immediate landscape forms part of the setting of the Church and other associated designated heritage assets. I accept this gives the landscape a cultural heritage value. However, the Council have not definitively indicated exactly what area of land it considers to be valued landscape. Even if it were argued the appeal site, the developable area or its immediate landscape is the valued landscape, there is no substantive evidence to suggest there are any other significant indicators of landscape value such that it has a degree of excellence as a landscape.
47. Thus, although I have found below that its setting (including the appeal site) forms part of the significance of the Church, this factor is not enough for me to conclude the appeal site is valued landscape. Therefore, whilst I do not doubt it is valued by those that live nearby, I do not regard the appeal site nor its immediate landscape as valued landscape within the terms of paragraph 174 of the Framework.

Landscape conclusions

48. The appeal site is not part of a valued landscape. However, the immediate landscape including the appeal site still has a medium landscape value and a medium level of sensitivity. Furthermore, I have also found the proposals would have a moderate adverse impact on the landscape and moderate adverse visual impact.
49. In reaching these conclusions I have considered the relevant flow diagram¹⁶ and I accept following it, a positive response to development could be considered in landscape terms. I have also fully considered the illustrative details, particularly the illustrative landscape strategy¹⁷ and the revised landscape strategy¹⁸.
50. The Inspector in considering the 2020 scheme concluded overall that that development would be harmful to the open countryside character, landscape character, and upon the character of the settlement of Hampton Lovett. Even noting all the differences between the 2020 scheme and the scheme before me, whilst I accept the proposal clearly takes account of the LCA, it would not conserve or enhance the majority of the characteristics of the landscape. Furthermore, it would not be appropriate to, nor would it integrate with, the character of the landscape setting.
51. Thus, consistent with the Inspector in the 2020 scheme, I conclude, based on the illustrative details, I cannot be satisfied that the level of development proposed can be accommodated on the appeal site without harming the character and appearance of the area, having particular regard to the landscape. I will return to this harm in my planning balance.

¹⁶ Core Document 5.2 Figure 2 Page 22

¹⁷ Core Document 1.21

¹⁸ J Ede Proof of Evidence Appendices (Appendix 2)

Heritage assets

52. The Church is located at the end of The Forest in a churchyard with its south entrance porch and tower facing the appeal site. The lych gate is positioned close to The Forest road edge in front of the Church as the gateway to the churchyard. It is common ground that the proposed development would not harm the fabric of either the Church or the lych gate and would be within the setting of both heritage assets.

Significance of the Church, the lych gate and other relevant heritage assets

53. The Church is 12th century in origin, with significant C14 to C16 extensions and alterations and restored mid C19. It is of ashlar construction, with a plain clay tiled roof, a two-bay 14th Century nave, a C14 chancel, and a C16 two stage tower and porch. As a building of great age which has evolved over centuries it has a variety of architectural details dating from different periods. These include buttresses, stone arches of varied form and decorative parapets. Inside the building, the font with a C14 base and a C19 bowl, the tomb of Sir John Pakington, a reclining effigy of Sir John Pakington and armorial glass fragments dating from 1561 are of note, together with other memorials associated with the Pakington family.
54. The Pakington family are responsible for much of the C19 alterations and restoration. The Pakington's first acquired and occupied a property known as Hampton Court in 1524, which although now demolished, was located next to the Church, on land now severed from it by the railway line. The grade II listed Pakington Memorial standing prominently in front of the southern entrance porch and tower in the churchyard also evidences the strength of the relationship between the Pakington's and the Church. Images of an 18th Century water colour also shows Hampton Court next to the Church with people and a horse in its foreground, which today would be the pastoral fields to the south of The Forest¹⁹.
55. The Church was also once part of a now deserted medieval settlement. None of the other existing properties on The Forest were there before 1839, the railway line was erected in 1852 and, in the mid-20th Century, what is now Doverdale Park was built. The A442, the roads leading up to the Church and large industrial estates have all been built nearby. Other buildings have been built and demolished and a historic footpath heading south across the fields south of The Forest has been established and lost over time. There are also many other features such as ponds which are noticeable on the historical maps²⁰ but are not present today. The demolition of Hampton Court, unsurprisingly given the age of the Church is just one of many changes that **have taken place in the grade I listed building's setting over its lifetime.**
56. Estate railings have also been installed within the setting of the Church and lych gate between The Forest and the fields to the south. Irrespective of their age or the reasoning behind their installation, there is no substantive evidence to suggest that the open character of the fields south of the Church has not always existed. Indeed, the tithe and historical OS maps²¹ appear to show a low timber fence around the churchyard, which although now removed, would

¹⁹ Core Document 11.1

²⁰ J Edis Proof of Evidence Appendices

²¹ J Edis Proof of Evidence Appendices

have also allowed the open rural character of the fields to still be appreciated from in and around the churchyard. In my view, the railings do not appear out of place in their agricultural setting and do not detract from the setting of the Church in any way.

57. Thus, even acknowledging the many changes within its setting and no doubt many others which I have not noted, the Church still sits relatively centrally in its spacious churchyard. It is at the end of only a small number of properties on The Forest with only a few others noticeable in its surroundings, such as the grade II listed Hampton Farmhouse and the grade II listed Old Rectory (also associated with the Pakingtons) which is connected to the churchyard by a public footpath. The Church tower and porch entrance face the same pastoral fields (including the appeal site) and although somewhat filtered by trees and vegetation, the relationship between the Church and the fields to the south of The Forest appears to be as open as it has always been.
58. There is no substantive evidence of a designed view or of any functional, financial or ownership link between the Church and the pastoral fields to the south of The Forest. However, these fields are part of a wider area of land which separates Hampton Lovett from Droitwich Spa and buffers the Church from the urban edge of Droitwich Spa, Doverdale Park and the Hampton Lovett Industrial estate. Even though there is no public access and thus no public views of the Church from the fields to the south, the fields still give the Church a spacious, calm, rural setting. This calmness is only frequently significantly interrupted by the fleeting passage of trains or vehicles serving the limited properties on The Forest. Whilst the setting of the Church, is without doubt, less calm than it once was, on the east side of the A442, the quiet peaceful rural setting of the Church is retained by features that have clearly been part of **the ancient building's** setting and charm for centuries.
59. Thus, insofar as is relevant to this appeal, I find the significance of the grade I listed Church of St Mary is founded on its architectural detailing which narrates the evolution of the building from the 12th century and its community value as a place for worship, burials and other religious activities, as evidenced by the association with the Pakington family and connections with properties close by. However, its significance, also derives from its quiet and peaceful rural setting.
60. Turning my attention to the lych gate. This was built in 1885 and has a decorative timber frame and ornamental gates. The timber frame is mounted on an ashlar plinth and supports a pitched plain tiled roof. The lych gate is the main pedestrian entrance to the churchyard. The gate opens to a path leading past the Pakington Memorial to the Church tower and southern porch entrance. Upon leaving the Church the same pathway affords views, filtered through trees, through and around the lych gate of the pastoral fields (including the appeal site and part of Doverdale Park) to the south of The Forest.
61. Insofar as is relevant to this appeal, the significance of the lych gate is founded on its architectural detailing and its community value as a pedestrian entrance to a churchyard. It is also derived from its quiet rural setting and most importantly by association and as a gateway to the grade I listed Church of St Mary.
62. It is common ground that there would be no harm to the grade II listed Pakington Memorial, the grade II listed Old Rectory and the grade II listed Hampton Farmhouse. Insofar as is relevant to this appeal, the significance of

all these heritage assets is derived from their relationship with the Church, the proposal would not impact on those relationships, consequently, it would not harm their significance.

Effect on the significance of the Church and the lych gate

63. The proposal would replace a significant part of the pastoral fields to the south of the Church and lych gate with a housing estate. Those new dwellings would be much closer to the Church and lych gate than the existing single storey mobile homes at Doverdale Park. I have already found the proposed development would conflict with the pattern and form of development on Doverdale Park and The Forest and would result in overall harm to the immediate landscape and the character and appearance of the area. This harm would occur within the setting of the Church and the lych gate.
64. It is unsurprising that the setting of the Church has changed significantly since the 12th century. However, this does not mean it can simply absorb further change without harm.
65. I acknowledge many of the existing public views of the Church and lych gate would be preserved with the proposed development in place and there is no public view of the Church from the appeal site. I also acknowledge the railway line is within view looking south from the Church and on entering the churchyard and clearly forms part of the context for the proposed development. However, although on a raised embankment, the railway line is only visually or acoustically prominent when trains are visible or heard on it. Instead, of being a dominating industrial feature in and around the churchyard and looking from the Church over the fields to the south its impact is fleeting and softened by the mature wooded embankment.
66. Many views of the Church are with the lych gate in front of it and the lych gate is in front of the pastoral fields and appeal site when looking south from the southern porch entrance of the Church. However, irrespective of its architectural style, the lych gate has an obvious ecclesiastic character which communicates its purpose as a gate to a churchyard, with the Church (its reason for being there) noticeable in its background. The lych gate is completely appropriate in its context and through its scale still affords clear views from the churchyard to the fields to the south.
67. The proposed new access road and footpaths would open up new public views of the Church and lych gate from the south looking north. Indeed, a public view would be created of the Church from the south where its wider rural setting could be appreciated. This would involve the reinstatement of a historic route (shown on the 1885, 1903, and 1927 OS Maps) to the Church across the appeal site as part of a wider proposed footpath network.
68. However, the illustrative details show the proposed development would be visible and noticeable from within the churchyard and or entering or leaving it via the lych gate and when leaving the Church via its southern entrance porch. Thus, the proposal would noticeably introduce significantly more modern houses, more associated domestic activity and more vehicle movements into the setting of the Church and the lych gate. The proposed built form and associated activity would be significantly greater than currently experienced as a result of the effects of the properties nearby on The Forest and Doverdale Park.

69. I accept the proposed grazing land, planting and landscape enhancements would offer some mitigation. However, they would not eliminate these effects in either the short or long term. I also accept even with the scheme in place, you would still be able to appreciate the monumental, aesthetic, community and evidential value of the Church.
70. However, for the reasons set out above, the proposal would introduce a suburban housing estate of conflicting form and layout to other properties nearby. That development would be in place of quiet, rural pastoral fields and would therefore diminish the quiet spacious rural setting of the grade I listed Church of St Mary and the grade II listed lych gate. Thus, based on the illustrative details I am not satisfied the proposed development could take place without being harmful to the setting and significance of both of these designated heritage assets.
71. In reaching these conclusions, I note that the 2020 decision found a negligible effect upon the significance of the lych gate in its own right. However, negligible is not the same as neutral, it alleges there would be some harm whereas neutral does not. For the reasons given above, consistent with the 2020 decision, I have also found harm to the setting of the grade II listed lych gate.
72. I have also noted that the 2020 scheme proposed approximately 28 dwellings and formal open space in the area shown as retained grazing land in the appeal before me. That grazing land would be consistent with the historical setting of the Church and lych gate, whereas manicured open space with associated paraphernalia as proposed in the 2020 scheme would not. I also acknowledge the proposed buildings on the scheme before me are shown to be further away from the Church and the lych gate than those detailed in the 2020 scheme. However, as explained above, the illustrative details before me show a scheme which is clearly different, particularly in terms of its indicative layout.
73. I also acknowledge paragraph 206 of the Framework says, Council's should look for opportunities for new development within the setting of heritage assets, to enhance or better reveal their significance. I accept the reinstatement of a historical route and the creation of public views from the south looking north towards the Church generally would allow the public to appreciate the Church and lych gate in their rural setting. However, these views would be in the context of development which I have found would erode the significance of the Church and lych gate by introducing harmful development into their settings. The proposal would not therefore enhance or better reveal the significance of the heritage assets.
74. The harm I have identified to the grade I listed Church of St Mary and the grade II listed lych gate, in both cases would be less than substantial. Setting is only part of the significance of both heritage assets, therefore the harm in both cases would be towards the lower end of the range. Even so, the Framework requires great weight to be attached to such harm and for it to be balanced against the public benefits of the scheme. I will return to this below as part of my overall planning balance.

Sustainable location for the proposed development and planning balance

75. Applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
76. Policy SWDP 2 of the SWDP (Part B) seeks to direct growth towards settlements in accordance with a defined hierarchy and within defined development boundaries. The appeal site is outside the defined development boundary of Droitwich Spa and is therefore located within the countryside. Part C of Policy SWDP 2 of the SWDP restricts growth in the open countryside to specific types of development deemed appropriate in the countryside which do not include open market dwellings such as those proposed.
77. The appeal scheme is therefore in conflict with Parts B and C of Policy SWDP 2 of the SWDP. However, these elements of Policy SWDP 2 of the SWDP clearly restrict new housing development and the Council cannot demonstrate a five-year land supply. Thus, consistent with the Inspector's findings in the Bretforton Appeal²² I afford these conflicts limited weight.
78. Part F of Policy SWDP 2 of the SWDP states development proposals should be of an appropriate scale and type with regard to the size of the settlement, local landscape character and refers to Policy SWDP 25 of the SWDP which states proposals should take into account the latest LCA and its guidelines. Furthermore, Policy SWDP 25 of the SWDP (Part A ii) seeks to ensure proposals are appropriate to, and integrate with, the character of the landscape setting. Part A iii of the same policy seeks to conserve and where appropriate enhance the primary characteristics defined in the character assessments.
79. I have found the proposal would result in harm to the landscape overall and that it would fail to conserve primary landscape characteristics and would not integrate with the character of the landscape setting. In this regard, the proposal is therefore in conflict with Policy SWDP 2 of SWDP (Part F) and Policy SWDP 25 (Parts A ii and iii) of the SWDP which insofar as is relevant to these issues are consistent with the aims of paragraph 174 of the Framework. However, if rigidly applied, these specific policy elements, would have the potential to restrict the development of many greenfield sites for housing development. The development of greenfield sites will be inevitable if the Council is to make up its housing shortfall. Furthermore, much of the district is constrained by greenbelt. Because of this, and the absence of a five-year supply, I therefore reduce the weight to be afforded to these conflicts and find they carry moderate weight against the scheme.
80. The proposal would also result in the loss of best and most versatile agricultural land. This would mean the scheme would also be in conflict with Policy SWDP 13 of the SWDP. However, also because of the pressing need for housing identified above, and the inevitable need for greenfield sites this conflict carries limited weight against the scheme.
81. Consistent with paragraph 195 of the Framework, Policies SWDP 6 and SWDP 24 of the SWDP, taken together, seek to conserve and enhance the significance of heritage assets, including that gained from their settings. For the reasons given above, the scheme would harm the setting and significance of the Church of St Mary and the lych gate. The proposal would therefore conflict with both

²² Core Document 7.5 and table of agreed adverse impacts and benefits

these policies in this regard. The less than substantial harm identified to the grade I listed Church of St Mary and grade II listed lych gate and the associated conflict with these development plan policies both carry great weight against the proposals.

82. Furthermore, based on the illustrative details, for the reasons given above, I am not satisfied the appeal site could be developed for the level of development proposed in a way that would integrate effectively with its surroundings or preserve the distinct identity and character of Hampton Lovett. In this regard the proposal would also conflict with Policy SWDP 21 of the SWDP. However, as the proposal is in outline form, I attach moderate weight to this conflict.
83. Thus, based on the policy conflicts outlined above, on balance the proposed development would clearly fail to accord with the development plan as whole. However, under paragraph 11(d) of the Framework the most important policies are deemed out of date, because the Council cannot demonstrate a five-year supply of deliverable housing sites. The Framework, indicates planning permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed, which include policies relating to designated heritage assets such as those considered in this case or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
84. The proposal would provide market and 40% affordable housing. The appellant has agreed to a condition which would secure the swift submission of detailed reserved matters and implementation within one year from reserved matters approval. I am satisfied there would be a reasonable likelihood that the proposed dwellings would be delivered at pace, significantly boosting the supply of housing in the area in line with paragraph 59 of the Framework.
85. However, I am unconvinced by the **Council's arguments** that the weight to the benefit of housing should be tempered, there is nothing substantive in the Framework which suggests such an approach based on the reasons given in the Council's evidence. Furthermore, the weight to be afforded to the benefit of the proposed new houses is agreed in the statement of common ground. In any event, even if I accepted it should be tempered (which I do not) it would not have altered the outcome of the appeal, I have not therefore considered the matter in detail.
86. It is clear to me, that the proposed homes would significantly contribute towards addressing the shortfall of housing generally and the need for affordable housing. Thus, the public benefit associated with the delivery of new homes carries substantial weight and the delivery of affordable homes in line with the requirements of Policy SWDP 15 of the SWDP also carries substantial weight as a public benefit in its own right.
87. The proposed homes would be close to and well connected to Droitwich Spa, such that they would be located where they would be served by a range of sustainable transport choices to access day to day services and employment. I attach moderate weight to this public benefit. Furthermore, the proposed connections through the scheme would also enhance the walking and cycling connectivity between The Forest and Droitwich Spa. This would be a further

- moderate public benefit in favour of the proposal. Moreover, the proposal through an increase in population, housing choice, and connectivity would enhance the vitality and vibrancy of Hampton Lovett, another public benefit which also carries moderate weight in support of the scheme.
88. The proposal would also deliver significant economic benefits both during construction and because of local expenditure from the occupants. Having regard to paragraph 81 of the Framework and the proposed development, in this case, this would be a public benefit to the local area to which I attach significant weight.
89. The scheme proposes significant new planting which would be in accordance with a landscape strategy and would enhance landscape characteristics identified in the LCA, such as hedgerow planting and reinforcement. However, such enhancements are mainly intended to mitigate the impacts of the proposed development. This public benefit only therefore carries moderate weight in favour of the proposals.
90. The appeal scheme would also deliver substantial BNG. A condition would be imposed to ensure a minimum of 20%. I am satisfied this could be achieved in part by the proposed generous network of open space. BNG is therefore a public benefit which carries significant weight in favour of the scheme.
91. The scheme would result in flood risk betterment, reducing flood risk in the area because of extreme rainfall events. This public benefit, in my view carries moderate weight in favour of the scheme.
92. The proposed public footpath network, particularly the section through the retained grazing land would allow clear public views of the Church and lych gate in its pasture setting. Notwithstanding the harm I have identified to heritage assets, this is a moderate public benefit in its own right.
93. The scheme would also provide public access to an extensive network of public open space, including a space adjacent to the river which is not currently accessible. However, open space is required to mitigate the impact of the proposal and the appeal site is in a countryside location within easy access to a good network of public footpaths and bridleways. I therefore attach moderate weight to this public benefit.
94. Therefore, the public benefits to be weighed in the balance are the substantial benefit associated with the delivery of new homes, the substantial benefit of affordable housing, the moderate benefit associated with the accessibility of the proposed dwellings, the moderate benefit of improved accessibility to existing residents, the moderate benefit of improved vitality and vibrancy of Hampton Lovett, the significant economic benefit to the local economy, the moderate benefit associated with planting and landscape enhancement, the significant benefit of BNG, the moderate benefit of flood risk betterment, the moderate benefit of new public views of the Church from the south and the moderate benefit of the proposed public open space.
95. However, in my view, taking into account the Community Infrastructure Levy payment and all the planning obligations including education, these public benefits are outweighed by the great weight attached to the harm to the grade I listed Church of St Mary, the great weight attached to the harm to the grade II listed lych gate, the moderate weight I attach to the adverse effect on the

landscape, the moderate weight attached to the adverse visual impact and the limited weight attached to the loss of grade 2 agricultural land.

96. Thus, bringing all this together, the appeal site would not be a sustainable location for the proposed development as it would not accord with the development plan. The application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposed and the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. The presumption in favour of sustainable development is not a material consideration and there no other material considerations which indicate this scheme should be determined other than in accordance with the development plan.
97. Consequently, it also follows the scheme would also conflict with Policy SWDP 1 of the SWDP which seeks to ensure, that in circumstances such as this case the presumption of sustainable development is applied.

Conclusion

98. For the reasons given above the appeal should be dismissed and planning permission refused.

L Fleming

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

H Richards of Counsel, instructed by the Solicitor to the Council

Who Called:

C Potterton (Potterton Associates Ltd)

D Hickie (Heritage Matters)

P Instone (Applied Town Planning Ltd)

FOR THE APPELLANT

K Garvey of Counsel instructed G Wakefield

Who Called:

J Ede (Turley)

J Edis (HCUK Group)

N Tiley (Pegasus)

G Wakefield (Ridge Planning)

INTERESTED PERSONS:

T Maizonnier (Ridge Planning)

I Thomas (Langdale Estates)

H Bouskell (Landowner)

J Singh (Wychavon District Council)

D Evans (Wychavon District Council)

K Hanchett (Worcestershire County Council)

J Suffield (Resident)

J Suffied (Resident)

K Jacques (Resident)

P Speechley (Resident)

M Wyatt (Resident)

INQUIRY DOCUMENTS RECEIVED JUST BEFORE AND AT THE INQUIRY

- CD14.1 Development density comparison plan
- CD14.2 Officer Report Ref W1400521CU
- CD14.3 Parameter Plan
- CD14.4 Guide to the Conservation of Historic Buildings
- CD14.5 Appellant Note on Appeals and Judgements
- CD14.6 LPA Note on Appeals and Judgements
- CD14.7 Appellants position on landscape and visual effects
- CD14.8 Addendum to Landscape Statement of Common Ground
- CD14.9 Appellants Opening Statement
- CD14.10 LPA Opening Statement
- CD14.11 J Suffield Evidence
- CD14.12 J Suffield Verbal Representation
- CD14.13 J Suffield Site Visit Points
- CD14.14 Regulation 123 List
- CD14.15 Site Visit Itinerary
- CD14.16 Planning Obligations Note
- CD14.17 Appeal Decision 329474 Healthcare Contribution Agreed
- CD14.18 Unesco PPG Extract
- CD14.19 Appellant Agreed NHS Contribution
- CD14.20 LPA Closing Submissions
- CD14.21 Appellant Closing Submission

INQUIRY DOCUMENTS RECEIVED AFTER THE CLOSE OF THE INQUIRY

- CD14.22 LPA Covering Note on IFS
- CD14.23 LPA Appendix 1
- CD14.24 LPA Appendix 2
- CD14.25 LPA Appendix 3
- CD14.26 County Council Note
- CD14.27 Appellant Response on IFS 09.01.23
- CD14.28 Appellant Comments on final S106 27.01.23
- CD14.29 LPA Email to PINS 020223 withdrawal of CIL Charging Scheme & Appendix 1 Report to Executive Board

- CD14.30 LPA Email to PINS 030223 CIL comments
- CD14.31 Appellant Response to PINS 060223 CIL comments
- CD9.8 Final S106 Legal Agreement 26.01.23 & S106 Deed of Variation
22.02.23