

# **OUTLINE PLANNING APPLICATION FOR THE DEVELOPMENT OF UP TO 29 DWELLINGS, VILLAGE SHOP/COMMUNITY FACILITY, VILLAGE GREENS, ORCHARD, BIODIVERSITY ENHANCEMENTS AND OTHER ANCILLARY WORKS**

## **APPEAL STATEMENT ON HERITAGE**

**LAND AT CHURCH STILE FARM, VINESEND LANE,  
CRADLEY, NR MALVERN, HEREFORDSHIRE, WR13 5LG**

**ON BEHALF OF BSL STRATEGIC**

**TOWN & COUNTRY PLANNING ACT 1990 (AS AMENDED)  
PLANNING AND COMPULSORY PURCHASE ACT 2004**

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## 1. AUTHOR'S BACKGROUND

- 1.1 My name is Gail Stoten. I am the Heritage Director at Pegasus Group. I am a Member of the Chartered Institute for Archaeologists (MCIfA) and have been elected as a Fellow of the Society of Antiquaries of London (FSA). I have a First Class Honours degree in Archaeology and I have been a heritage professional for 16 years.
- 1.2 The assessment of the setting of heritage assets is an area in which I have expertise. I have completed many specialist assessments of setting, including those for development in the vicinity of Warwick Castle and Park and for development proposed around Listed farmbuildings and adjacent to a Conservation Area at Foldgate in Ludlow.
- 1.3 The evidence which I have prepared and provided for this appeal in this Statement is true and has been prepared and given in accordance with the guidance of my professional institution. I confirm that the opinions expressed are my true professional opinions.

## 2. INTRODUCTION

- 2.1 This Statement has been prepared against refusal to grant planning permission for a residential scheme on Land at Church Stile Farm, Vinesend Lane, Cradley, Nr Malvern. The appeal is lodged by BSL Strategic ("The Appellant").
- 2.2 Planning Application No. 162155 was submitted to Herefordshire Council on 8th July 2016. The submission sought outline permission for the development of up to 29 dwellings, village shop/community facility, village greens, orchard, biodiversity enhancements and other ancillary works. The application was refused on 26<sup>th</sup> September 2016.
- 2.3 The third reason for refusal of the Decision Notice relates to heritage:

*The proposed development by virtue of its Inappropriate location, scale and apparent necessity to remove frontage hedgerow would harm, albeit less than substantial, and fail to enhance the setting of the Cradley Conservation Area, the Grade 2 listed 'Church Stile Farm', the Grade 2\* listed Church of St. James and the Grade 2 listed 'Buryfield Cottage' contrary to Policies SS6 and LD4 of the*



*Herefordshire Core Strategy 2011 -2031. In the opinion of the Local Planning Authority the public benefits that would arise from the proposal would not outweigh the harm to the setting of the heritage assets and as a result would not constitute a sustainable form of development. As a consequence the proposal is also considered to be contrary to the Central Government policy as read as a whole contained within paragraphs 7, 14, 131, 132, 134 and 137 of the National Planning Policy Framework 2012.*

- 2.4 This Statement sets out the justification for the proposal. It will do this by considering the nature of the significance of the heritage assets affected and any resulting harm to the significance of the assets that arises from the proposed development. The balancing of this harm against the public benefits of the proposed scheme is covered by the Planning Appeal Statement.
- 2.5 A full description of the site and surrounding area, and details of the planning history are provided in the Planning Appeal Statement.

### 3. METHODOLOGY

- 3.1 A Heritage Statement was submitted with the application<sup>1</sup>. This statement has drawn on this assessment, but the evaluation of significance and setting given below supersedes the 2016 Heritage Statement. This assessment has also been informed by a site visit, the draft Conservation Area Appraisal for Cradley, the consultation responses, and further research at the Herefordshire Archive and Records Service.

#### Assessment of significance

- 3.2 In the NPPF, heritage significance is defined as:

**“the value of a heritage asset to this and future generations because of its heritage interest. That interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset’s physical presence, but also from its setting.”**

#### Articulating value

- 3.3 *Planning Note 2*<sup>2</sup> gives advice on the assessment of significance as part of the application process. It advises understanding the nature, extent, and level of significance of a heritage asset. In order to do this, *Planning Note 2* also advocates considering the four types of heritage value an asset may hold, as identified in *Conservation Principles*<sup>3</sup>; **aesthetic, communal, historic** and **evidential**. These essentially cover the heritage ‘interests’ given in the glossary of the NPPF, which comprise archaeological, architectural, artistic and historic interest.
- 3.4 *Conservation Principles* provides further information on the heritage values it identifies:
- **Evidential value:** the potential of a place to yield evidence about past human activity. This value is derived from physical remains, such as archaeological remains, and genetic lines.

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<sup>1</sup> ACD Environmental, 2016, Land at Cradley, Herefordshire, Archaeology and Heritage Statement (Appendix 1)

<sup>2</sup> Historic England, 2015, *Historic Environment Good Practice Advice in Planning Note 2: Managing Significance in Decision Taking in the Historic Environment* (Appendix 2)

<sup>3</sup> English Heritage 2008 *Conservation Principles, Policies and Guidance for the Sustainable Management of the Historic Environment* (Appendix 3)

- **Historical value:** the ways in which past people, events and aspects of life can be connected through a place to the present - it tends to be illustrative or associative. Illustrative value is the perception of a place as a link between past and present people and depends on visibility. It has the power to aid interpretation of the past through making connections with and providing insights into past communities and their activities through shared experience of a place. By contrast, associative value need not necessarily be legible at an asset. But gives a particular resonance through association with a notable family, person, event or movement.
- **Aesthetic value:** the ways in which people draw sensory and intellectual stimulation from a place. Aesthetic values can be the result of conscious design or fortuitous outcome or a combination of the two aspects. The latter can result from the enhancement of the appearance of a place through the passage of time.
- **Communal value:** the meanings of a place for the people who relate to it, or for whom it figures in their collective experience or memory. This can be through widely acknowledged commemorative or symbolic value that reflects the meaning of the place, or through more informal social value as a source of identity, distinctiveness, social interaction and coherence. Spiritual value may also be part of communal value.

3.5 Significance results from a combination of any, some or all of the values described above.

3.6 Listed Buildings and Conservation Areas are designated for their special architectural and historic interest. Scheduling is predominantly, although not exclusively, associated with archaeological interest.

#### Setting and significance

3.7 As defined in the NPPF:

*"Significance derives not only from a heritage asset's physical presence, but also from its setting." (NPPF Annex 2).*

3.8 Setting is defined as:

*"The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may contribute to the*



*significance of an asset, may affect the ability to appreciate that significance or may be neutral.” (Annex 2)*

- 3.9 Therefore, setting can contribute to, affect an appreciation of significance or be neutral with regards to heritage values.

Assessing change through alteration to setting

- 3.10 How setting might contribute to these values has been assessed within this report with reference to *The Setting of Heritage Assets*<sup>4</sup>, particularly the checklist given on page 9. *The Setting of Heritage Assets* advocates the clear articulation of ‘*what matters and why*’.

- 3.11 In *The Setting of Heritage Assets*, a stepped approach is recommended, of which Step 1 is to identify the heritage assets affected and their settings. Step 2 is to assess ‘*whether, how and to what degree settings make a contribution to the significance of the heritage asset(s)*’. The guidance includes a (non-exhaustive) check-list of elements of the physical surroundings of an asset that might be considered when undertaking the assessment including, among other things: topography, other heritage assets, land use, green space, functional relationships, degree of change over time and integrity. It also lists points associated with the experience of the asset which might be considered, including: views, intentional intervisibility, tranquillity, sense of enclosure, accessibility, rarity and associative relationships.

- 3.12 Step 3 is to assess the effect of the proposed development on the significance of the asset(s). Step 4 is ‘*maximising enhancement and minimising harm*’. Step 5 is ‘*making and documenting the decision and monitoring outcomes*’.

Levels of significance

- 3.13 In accordance with the levels of significance articulated in the NPPF, four levels of significance are identified:

- **Designated heritage assets of the highest significance**, as identified in paragraph 132 of the NPPF comprising Grade I and II\* Listed buildings; Grade I and II\* Registered Parks and Gardens; Scheduled Monuments;

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<sup>4</sup> Historic England, 2015, *Historic Environment Good Practice Advice in Planning Note 3: The Setting of Heritage Assets* (Appendix 4)

Protected Wreck Sites and Registered Battlefields (and also including some Conservation Areas);

- **Designated heritage assets of less than the highest significance**, as identified in paragraph 132 of the NPPF, comprising Grade II Listed buildings and Grade II Registered Parks and Gardens (and also some Conservation Areas);
- **Non-designated heritage assets;**
- Sites, buildings or areas of **no heritage significance**.

#### Assessment of harm

3.14 In order to relate to key policy, the following levels of harm may potentially be identified:

- Substantial harm or total loss. It has been clarified in a High Court Judgement of 2013<sup>5</sup> that this would be harm that would 'have such a serious impact on the significance of the asset that its significance was either vitiated altogether or very much reduced';
- Less than substantial harm. Harm of a lesser level than that defined above; and
- No harm (preservation). A High Court Judgement of 2014 is relevant to this<sup>6</sup>. This concluded that with regard to preserving the setting of a Listed building or preserving the character and appearance of a Conservation Area, 'preserving' means doing 'no harm'.

3.15 With regards to less than substantial harm, a conclusion will be given as to where on the scale of less than substantial harm it lies, in order to inform a balanced judgement/weighting exercise.

3.16 Preservation does not mean no change; it specifically means no harm. *Planning Note 2* states that "Change to heritage assets is inevitable but it is only harmful

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<sup>5</sup> EWHC 2847, R DCLG and Nuon UK Ltd v. Bedford Borough Council (Appendix 5)

<sup>6</sup> EWHC 1895, R (Forge Field Society, Barraud and Rees) v. Sevenoaks DC, West Kent Housing Association and Viscount De L'Isle (Appendix 6)



*when significance is damaged*". Thus change is accepted in Historic England's guidance as part of the evolution of the landscape and environment. It is whether such change is neutral, harmful or beneficial to the significance of an asset that matters.

- 3.17 As part of this, setting will be the key consideration. For an evaluation of any harm to significance through changes to setting, this assessment follows the methodology given in *The Setting of Heritage Assets*, described above. Again, fundamental to the methodology set out in this document is stating '*what matters and why*'. Of particular relevance is the checklist given on page 11 of *The Setting of Heritage Assets*.

- 3.18 It should be noted that this key document states that:

*"setting is not a heritage asset, nor a heritage designation"*

- 3.19 Hence any impacts are described in terms of how they affect the significance of a heritage asset, and heritage values that contribute to this significance, through changes to setting.

- 3.20 With regards to changes in setting, *The Setting of Heritage Assets* states that "*protection of the setting of heritage assets need not prevent change*".

#### **4. PLANNING POLICY**

- 4.1 The following legislation and planning policies are considered relevant to this proposal.

##### **National Planning Legislation, Policy and Guidance**

##### **Legislation**

- 4.2 Legislation relating to the Historic Environment is primarily set out within the Planning (Listed Buildings and Conservation Areas) Act 1990 which provides statutory protection for Listed Buildings and Conservation Areas.
- 4.3 Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that:

*"In considering whether to grant planning permission [or permission in principle] for development which affects a listed building or its setting, the*

*local planning authority or, as the case may be, the Secretary of State, shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses”.*

- 4.4 In the 2014 Court of Appeal judgement in relation to the Barnwell Manor case<sup>7</sup>, Sullivan LJ held that:

*“Parliament in enacting section 66(1) did intend that the desirability of preserving the settings of listed buildings should not simply be given careful consideration by the decision-maker for the purpose of deciding whether there would be some harm, but should be given “considerable importance and weight” when the decision-maker carries out the balancing exercise.”*

- 4.5 Recent judgement in the Court of Appeal<sup>8</sup> (‘Mordue’) has clarified that, with regards to the setting of Listed Buildings, where the principles of the NPPF are applied (in particular paragraph 134, see below), this is in keeping with the requirements of the 1990 Act.

- 4.6 Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states:

*“In the exercise, with respect to any buildings or other land in a conservation area, of any powers under any of the provisions mentioned in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.”*

- 4.7 The implications of legislation and case law regarding heritage assets for the planning decision making process are addressed in the Planning Statement.

National Planning Policy Framework (March 2012)

- 4.8 The National Planning Policy Framework (NPPF) was published in March 2012 and replaces the majority of Planning Policy Guidance Notes (PPGs) and Planning Policy Statements (PPSs).

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<sup>7</sup> East Northamptonshire District Council v SSCLG (2015) EWCA Civ 137 (Appendix 7)

<sup>8</sup> Jones v Mordue Anor (2015) EWCA Civ 1243 (Appendix 8)

- 4.9 **Paragraph 128** states that in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary.
- 4.10 **Paragraph 131** states that, in determining planning applications, local authorities should take account of the desirability of sustaining and enhancing heritage assets by putting them to viable uses consistent with their conservation; and the desirability of new development making a positive contribution to local character and distinctiveness.
- 4.11 **Paragraph 133** deals with circumstances where a proposed development would lead to substantial harm to or total loss of significance of a designated heritage asset.
- 4.12 **Paragraph 134** deals with circumstances where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, confirming that this harm should be weighed against public benefits of the proposal, including securing its optimum viable use.
- 4.13 **Paragraph 135** deals with circumstances where a development proposal would affect the significance of a non-designated heritage asset, requiring a balanced judgement, having regard to the scale of any harm or loss and the significance of the heritage asset.
- 4.14 With regard to decision taking, **Paragraphs 186 and 187** confirm that local authorities should approach it in a positive way, looking for solutions rather than problems and seeking to approve applications for sustainable development where possible.
- 4.15 Overall, the NPPF confirms that the primary objective of development management is to foster the delivery of sustainable development, not to hinder or prevent it. Local Authorities should approach development management decisions positively - looking for solutions rather than problems so that applications can be approved wherever it is practical to do so. They should also attach significant weight to the benefits of housing growth. Additionally, securing the optimum viable use of the



property and achieving public benefits are also key material considerations for application proposals.

National Planning Practice Guidance (March 2014)

- 4.16 On 6th March 2014, the Department for Communities and Local Government (DCLG) launched the planning practice web based resource, accompanied by a ministerial statement which confirmed that a number of previous planning practice guidance documents were cancelled.
- 4.17 This also introduced the national Planning Practice Guidance (PPG) which comprised a full and consolidated review of planning practice guidance documents to be read alongside the NPPF.
- 4.18 The PPG has a section on the subject of '*Conserving and enhancing the historic environment*' which at paragraph 009 (ID: 18a-009-20140306 revision date 06.03.2014) confirms that consideration of '*significance*' in decision taking and states:

*"heritage assets may be affected by direct physical change or by change in their setting. Being able to properly assess the nature, extent and importance of the significance of a heritage asset, and the contribution of its setting, is very important to understanding the potential impact and acceptability of development proposals."*

- 4.19 In terms of what constitutes substantial harm, paragraph 017 (ID: 18a-017-20140306 revision date 06.03.2014) confirms that whether a proposal causes substantial harm will be a judgement for the individual decision taker having regard to the individual circumstances. It goes on to state:

*"In general terms, substantial harm is a high test, so it may not arise in many cases. For example, in determining whether works to a listed building constitute harm, an important consideration would be whether the adverse impact seriously affects a key element of its architectural or historic interest. It is the degree of harm to the asset's significance rather than the scale of the development that is to be assessed. The*

*harm may arise from works to the asset or from development within its setting.*

*While the impact of total destruction is obvious, partial destruction is likely to have a considerable impact but, depending on the circumstances, it may be less than substantial harm or conceivably not harmful at all, for example, when removing later inappropriate additions to historic buildings which harm their significance. Similarly, works that are moderate or minor in scale are likely to cause less than substantial harm or no harm at all. However, even minor works have the potential to cause substantial harm."*

### **Local Planning Policy**

- 4.20 The Herefordshire Local Plan Core Strategy 2011-2031 was adopted on 16th October 2015. This contains the following potentially relevant policies on heritage:

*Policy SS6 Environmental quality and local distinctiveness*

*Development proposals should conserve and enhance those environmental assets that contribute towards the county's distinctiveness, in particular its settlement pattern, landscape, biodiversity and heritage assets and especially those with specific environmental designations. In addition, proposals should maintain and improve the effectiveness of those ecosystems essential to the health and wellbeing of the county's residents and its economy. Development proposals should be shaped through an integrated approach to planning the following environmental components from the outset, and based upon sufficient information to determine the effect upon each where they are relevant:*

- landscape, townscape and local distinctiveness, especially in Areas of Outstanding Natural Beauty;*
- biodiversity and geodiversity especially Special Areas of Conservation and Sites of Special Scientific Interest;*
- historic environment and heritage assets, especially Scheduled Monuments and Listed Buildings;*



- *the network of green infrastructure;*
- *local amenity, including light pollution, air quality and tranquillity;*
- *agricultural and food productivity;*
- *physical resources, including minerals, soils, management of waste, the water environment, renewable energy and energy conservation.*

*The management plans and conservation objectives of the county's international and nationally important features and areas will be material to the determination of future development proposals. Furthermore assessments of local features, areas and sites, defining local distinctiveness in other development plan documents, Neighbourhood Development Plans and Supplementary Planning Documents should inform decisions upon proposals.*

#### **4.21 Policy LD4 Historic Environment and Heritage Assets**

*Development proposals affecting heritage assets and the wider historic environment should:*

- 1. Protect, conserve, and where possible enhance heritage assets and their settings in a manner appropriate to their significance through appropriate management, uses and sympathetic design, in particular emphasising the original form and function where possible;*
- 2. where opportunities exist, contribute to the character and local distinctiveness of the townscape or wider environment, especially within conservation areas;*
- 3. use the retention, repair and sustainable use of heritage assets to provide a focus for wider regeneration schemes;*
- 4. record and advance the understanding of the significance of any heritage assets to be lost (wholly or in part) and to make this evidence or archive generated publicly accessible and*
- 5. where appropriate, improve the understanding of and public access to the heritage asset.*

*The scope of the works required to protect, conserve and enhance heritage assets and their settings should be proportionate to their significance. Development schemes should emphasise the original form and function of any asset and, where appropriate, improve the understanding of and public access to them.*

## **5. CASE FOR THE APPELLANT**

- 5.1 The Appellant contends that this proposal is acceptable in planning terms and that this appeal should be allowed and planning permission granted for the proposed development.
- 5.2 The following sections consider the potential for the scheme to impact upon the significance of heritage assets in the vicinity through changes to setting and responds to the Reason for Refusal relating to heritage and the consultee comments.

## **6. HERITAGE ASSETS**

- 6.1 The heritage assets cited in the reason for refusal comprise:
- the Cradley Conservation Area;
  - the Grade II listed Church Stile Farm;
  - the Grade II\* listed Church of St. James; and
  - the Grade II listed Buryfield Cottage.
- 6.2 These are illustrated on Figure 1 in Appendix 9. These assets are discussed further below, starting with the Listed buildings, then discussing the Conservation Area as a whole. A photograph location plan is given in Figure 2 in Appendix 9.
- 6.3 Following the site visit it is not considered that the proposed development has the potential to impact upon the significance of any other heritage assets.

### ***Church Stile Farmhouse***

- 6.4 Church Stile Farmhouse is a Grade II Listed building, making it a designated heritage asset of less than the highest significance. It is a much-extended 17th-

century cottage. The historic element comprises a one-and-a-half storey building of timber frame with roughcast panels (Plate 1). The Listing description notes the modern wing at the rear (west), and the new tile roof (Appendix 10). The building faces east, onto a garden area.



*Plate 1 Church Stile Farmhouse, looking south from a location to the south of the site*

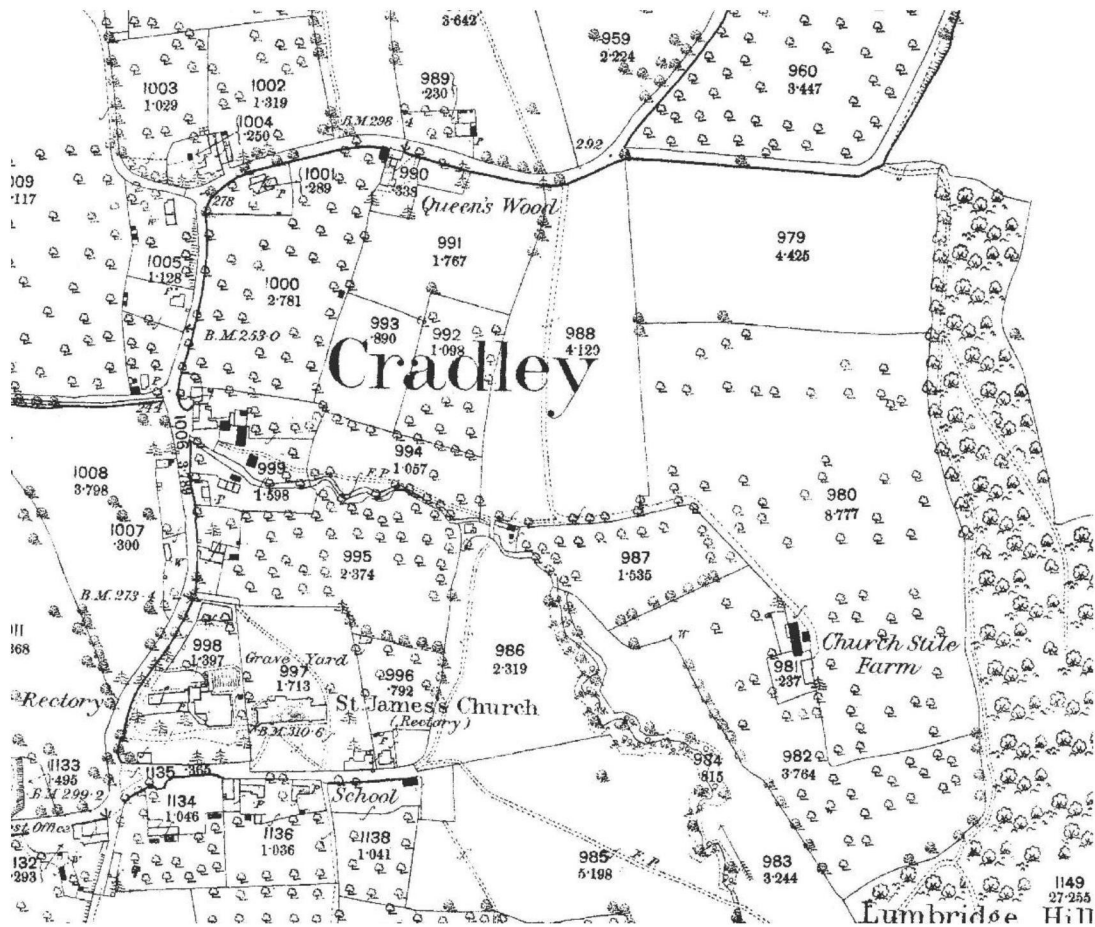
- 6.5 Its significance is primarily derived from its fabric, which has evidential, historic and aesthetic values. Setting does make a contribution to its significance, but this is secondary to that of its fabric.
- 6.6 The primary setting of the farmhouse is the farm complex, which has historic illustrative value in clearly demonstrating the origins of the cottage as a farmhouse. In addition to the farmhouse, this comprises mainly modern buildings to the south and south-west.
- 6.7 The fields immediately adjacent to the farm also contribute to the significance of the asset through setting, having historic illustrative value. Historic mapping shows that the area around the farm was previously planted as orchard, so has undergone change of agricultural regime to become pasture.



6.8 The Tithe Map and Apportionment Register for Cradley (1841; Appendix 11) show that the site was not part of the historic landholding of Church Stile Farm. The site was divided between three other landholdings; fields 1051 and 1052 which make up the eastern area of the site were under the ownership of Frances Hales and occupied by John Kay; fields 1104 and 1105 in the western area of the site were owned by Thomas Summers and occupied by William Wood; and the field 972 which was owned by Richard Bower and occupied by Walter Beard (Appendix 11). By contrast, Church Stile Farm (1025) was owned by Thomas Archer and occupied by Richard Lane. This had a compact landholding that was under the same tenancy of nine fields to the south of the site (1026, 1027, 1028, 1029, 1030, 1031, 1035, 1036 and 1037). Hence the site lay outside the historic landholding of Church Stile Farm and historically did not have a functional association with it.



Plate 2 Extract from the Title Map



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- 6.9 The fields in the wider vicinity of Church Stile Farm also allow views to the house (aesthetic value), including distant views from the public footpath to the north-west (Plate 4).



*Plate 4 Distant view of Church Stile Farmhouse from the public footpath to the north-west*

6.10 The house does not appear to have views to the church tower (Plate 5).



*Plate 5 Looking west from Church Stile Farmhouse towards the church*

- 6.11 The drive to the farm runs broadly south from the junction of Vinesend Lane and the unnamed road through Cradley. The Tithe Map and First Edition Ordnance Survey map (Plates 3 and 4) shows that this is realignment, and that historically the approaches to the farm were from the unnamed road further to the west and possibly from Rectory Lane on the First Edition, although this latter route may have only been a path as it is today. The drive was realigned to its current alignment between 1955 and 1974.
- 6.12 With regards to the site's contribution to the significance of Church Stile Farmhouse through setting, it is part of the current landholding of the farm, although it was not part of the historic landholding. It is not immediately adjacent to the farm, being located over 230m away, and lies beyond farmland that is adjacent to the house.
- 6.13 In views from the house and garden, the site has a partial backdrop of existing residential development, comprising modern houses to the north of the unnamed road through the village (Plates 6 and 7).





*Plate 6 Panoramic view from north-west to north-east from the northern edge of the garden of Church Stile Farmhouse*



*Plate 7 View looking north-east from the northern edge of the garden of Church Stile Farmhouse*

6.14 With regards to the access track to the farm that currently crosses the site, as discussed above, this is a realignment of a previous approach, which may also have joined with Rectory Close. The current access track was established between 1955 and 1974, being first depicted on the Ordnance Survey map of 1974.

- 6.15 There are views across the site from a footpath in the western part of the site, but these are distant.
- 6.16 Overall, the site is considered to make a minor contribution to the significance of Church Stile Farmhouse through setting.
- 6.17 The proposed development comprises the construction of up to 29 houses with associated facilities. It should be noted that the built form of the development will be confined to the western area of the site, with the eastern area used as community garden and vineyard. The application is in outline, so layout and access are not fixed, but a section of hedgerow may be removed where the site fronts onto the unnamed road to facilitate access. Vehicular access through the site may be realigned, further to the west, closer to the original line of the track, as depicted on the map of 1887. The illustrative masterplan shows the line of the current access track will be retained as a pedestrian/cycleway.
- 6.18 The proposed scheme will result in changes to the setting of Church Stile Farmhouse. Housing will be visible closer in views north from the farmhouse, although they will still be beyond pasture fields and it should be noted that the historic core of the farm faces west rather than north. The fields of the site were not historically part of the Church Stile Farm landholding. The character of the approach to the farmhouse will be altered where it is closest to the road, although it should be noted that this is a modern alignment. Some distant views of the Farmhouse from the public footpath in the western area of the site will be blocked, although it is anticipated that similar, new public views from the new access road will be created although these would be of a more channelled nature.
- 6.19 The physical remains of the structure, its immediate farm setting and the fields in the immediate vicinity of the building which were part of its historic landholding would not be impacted upon. Hence, I consider that the proposed development would cause harm to the asset at the lower end of the less than substantial harm spectrum.

### ***The Church of St James***

- 6.20 The Church of St James is a Grade II\* Listed building, making it a designated heritage asset of the highest level of significance (Plate 8). The church was largely rebuilt in the 19<sup>th</sup> century, but retains older fabric. The squat tower is of 13<sup>th</sup>-



century date at the base and it was heightened in the 15<sup>th</sup> century. Some apparently Anglo-Saxon stonework is incorporated within the structure.

- 6.21 Again, its significance is primarily embodied in its fabric, which has evidential, historic, aesthetic and communal value. Setting contributes to significance, but to a far lesser degree.



*Plate 8 The Church of St James, looking north-west*

- 6.22 The primary setting of the church that makes the greatest contribution to its significance comprises its oval shaped churchyard, and the historic buildings and structures in its vicinity including the churchyard cross, lych gate, old rectory and village hall, which have historic illustrative value as the historic and ecclesiastical core of the village, as well as aesthetic value in their arrangement (Plates 9 and 10). The group value of these structures is specifically mentioned as a reason for designation in the Listing Description for St James Church.





*Plate 9 The church yard to the south of St James Church, and adjacent buildings*



*Plate 10 Looking north-east to The Old Rectory and St James Church*

- 6.23 The church lies on a small hill, and views to the tower from the vicinity contribute to the significance of the asset.

- 6.24 There are views to the church across the site from the footpaths to the east of the site, but it would be fair to say that whilst visible the tower is not prominent in these views, being partially screened by vegetation (Plate 11).



*Plate 11 Looking south-west across the site from the footpath to the east towards the church tower*

- 6.25 There are views from the footpath within the site to the church, but again the church tower is not prominent and heavily filtered by vegetation (Plate 12). The church is more visible as one moves south beyond the site. The site is visible in views looking north from further south, closer to the church, although views have a partial backdrop of modern housing and are filtered by vegetation (Plate 13).





*Plate 12 Heavily filtered view of the church tower from within the site*



*Plate 13 View looking north towards the site from the footpath which runs south from the site. In this the site is visible but filtered by vegetation and with a backdrop including modern buildings*



- 6.26 Similar views are possible from the footpath which runs east to west to the east of this footpath (Plate 14).



*Plate 14 View looking north towards the site from the east/west footpath to the east of the church*

- 6.27 From the churchyard, only very heavily filtered views of the site are possible. The field to the west of the site much more visible from the churchyard (Plates 15 and 16).



*Plate 15 Looking north-east from the church yard (site hardly visible)*



*Plate 16 Looking north from the church yard, to the field to the west of the site*

- 6.28 Overall, having considered views from within and in the vicinity of the site, and views from the church, the site is not considered to make an appreciable contribution to the heritage significance of the church.
- 6.29 The proposed development may be visible although filtered by vegetation in views from the churchyard and views from footpaths in the vicinity of the site from closer to the church. However, these would not impact upon the heritage significance of the asset. Any loss of heavily filtered views of the church within the site are likewise not considered to impact upon the heritage significance of the asset. No harm to the heritage significance of St James Church is anticipated as resulting from the proposed development.

### ***Buryfield Cottage***

- 6.30 Buryfield Cottage is a 17<sup>th</sup>-century timber-framed cottage of one-and-a-half stories (Plate 17). As a Grade II Listed building, Buryfield Cottage is a designated heritage asset of less than the highest level of significance. Again, its significance is primarily embodied in its fabric. Indeed, due to the alteration of its historic setting, its significance is almost entirely embodied in its fabric.



*Plate 17 Buryfield Cottage, looking north-west*



- 6.31 The elements of its setting that make a (very limited) contribution to significance are its garden and Buryfields (road), which are the areas from which it is primarily experienced and appreciated (aesthetic value).
- 6.32 The modern houses present to the east, north and west of Buryfields have greatly altered the setting of the asset, and it now has a largely modern residential setting (Plate 17).
- 6.33 The cottage does have some views to the field to the south (Plate 18), across which it has filtered views to the church, as well as the site (Plate 19).



*Plate 18 View south from to the south of Buryfield Cottage, to the field to the south and filtered views of the church.*

- 6.34 The cottage is likely to have some views south-east to the site, with the eastern area most prominent and the eastern area partially screened by vegetation (Plate 19).



*Plate 19 Looking south-east towards the site from south of Buryfield Cottage*

- 6.35 The site makes a negligible contribution to the significance of the asset through setting (historic illustrative value), as part of the remaining wider agricultural setting.
- 6.36 Development within the site will change the character of part of the wider setting of the cottage. This originally largely agricultural setting has been much altered through modern residential development. The area of agricultural setting that the cottage has the closest visual relationship with, the field immediately to the south of the cottage, would remain unaltered. The proposed development would cause negligible harm to the heritage significance of the asset.

### ***The Conservation Area***

- 6.37 The Conservation Area lies immediately to the west of the site. As a heritage asset containing many Listed buildings, it is considered to be a designated heritage asset of the highest significance, as defined by the NPPF.
- 6.38 The Conservation Area has a dispersed settlement pattern, and includes many areas of open space, paddocks and fields. It includes two modern cul-de-sacs and



additional more-historic dead-end lanes, including the historic core of Rectory Lane (although a track from here may have once led on to Church Stile Farm). The significance of the asset is largely embodied in the structures, open spaces and planting of the Conservation Area itself.

6.39 A Conservation Area Appraisal has been drafted but not adopted (Appendix 12). It is dated March 2007. The summary of special interest highlights the following:

- The location of the village on the boundary between the Herefordshire Central Lowland and Malvern Foothills and its inclusion (*within* the Conservation Area) of the historic village core and open landscape on the north-western and eastern sides of the settlement.
- Its mention in the Domesday Survey, the Anglo-Saxon and medieval church, medieval settlement, former open fields and common meadowland.
- The early 16<sup>th</sup>-century parish hall and post-medieval timber-framed houses.
- The small number of Georgian brick buildings and several 19<sup>th</sup>-century local stone-built buildings with gables or gable dormers, as well as the village school and post office.
- The mid and later 20<sup>th</sup>-century suburban development.
- The sunken roads, stone wall and trees with a sense of enclosure.
- The twenty-five Listed buildings within it.

6.40 No views out of the Area are mentioned in the Summary of Special Interest, and indeed this states that:

*Sunken roads and old stone lanes, substantial boundary walls of sandstone rubble, and mature trees and hedges contribute significantly to the character of the conservation area. They also generate a sense of enclosure with limited views of the landscape setting beyond the village.*

6.41 The *Location and Setting* section states that the Conservation Area is set in an agricultural landscape, on an undulating west-facing slope.

6.42 In the *Spatial Analysis* section, Barratt's Orchard (the field to the west of the site) is mentioned as being the setting for views to the north from the parish churchyard,



and vice versa. This suggest the rationale for including this field within the Conservation Area.

- 6.43 The Appraisal includes a section on *Key Views and Vistas*, none of which are towards the site. Two view descriptions mention the wooded slopes of Lumbridge Hill, which cannot include the pasture land of the site.
- 6.44 Following the site visit, I consider that the Conservation Area generally has an enclosed setting, with the main street running in a hollow way as it moves north (Plate 20).



*Plate 20 The main street through Cradley, running in a Holloway, precluding views to the site from the road*

- 6.45 The site is part of the wider agricultural surrounds of the asset, but it is not part of any views that make a significant contribution to the heritage significance of the area.
- 6.46 The site is largely screened in views approaching the village from Vinesend Lane, until you are adjacent to it (Plate 21).



*Plate 21 View from Vinesend Lane to the east of the site, with the site largely obscured by vegetation*

- 6.47 On the approach to the village from the north-east, the site is again largely obscured until close to it (Plate 22). The modern primary school is prominent on this approach, before the site is reached (Plate 23).





*Plate 22 The approach to Cradley from the north-east, with the site largely obscured*



*Plate 23 The modern primary school to the north of the site, looking west*



- 6.48 I consider that the site makes a very small contribution to the overall heritage significance of the asset as part of the wider agricultural landscape (historic illustrative and aesthetic values). It is visible on approaches to the village from roads to the east and north-east, but is largely obscured until very close to the site. It is visible from footpaths to the east (Plate 11), as discussed above, but the core of the Conservation Area is not readily visible in this view. The site is not part of any key views out from the Conservation Area.
- 6.49 A section of hedgerow on the north-western boundary of the site, adjacent to the unnamed road through Cradley may be removed (the layout and access are not yet fixed). At least part of this hedgerow must postdate the moving of the access track to Church Stile Farm, which originally joined the road to the west of its current alignment. This section of hedgerow is directly opposite modern housing, and further hedgerow would remain further to the east and north-west. This, together with the remainder of the site, is considered to make a negligible contribution to the significance of the asset through setting.
- 6.50 It should be noted that two large areas of open agricultural land were included in the Conservation Area itself, and these are the areas of open space on the edge of the settlement that make the greatest contribution to its significance. These are the field to the west of the site, across which Buryfield Cottage has reciprocal views to the church, and other fields on the eastern side of the village, adjacent to the historic core, and the area to the north-west of the village where the land falls away towards the brook.
- 6.51 The proposed development would be partially visible when approaching from the north-east and east, but only from close to the village and in views which currently include modern development. The impact of the proposed development on the heritage significance of the Conservation Area as a whole would be negligible, affecting neither the most important open agricultural land (which is included within the designation), nor identified key views.

### ***Summary of my assessment***

I consider that the proposed development would result in no harm the Church of St James; negligible less than substantial impacts on Buryfield Cottage and the Conservation Area; and less than substantial harm at the lower end of the spectrum to Church Stile Farmhouse.

## **7. DISCUSSION OF PLANNING POLICY**

- 7.1 Section 72 of the 1990 Act is not applicable as the site lies outside the Conservation Area.
- 7.2 As discussed above, in line with paragraph 134 of the NPPF, a negligible less than substantial harm to the Conservation Area and Buryfield Cottage and the less than substantial harm at the lower end of the spectrum to Church Stile Farmhouse should be weighed against the public benefits of the proposal. This weighing exercise is carried out by Mr Stentiford.
- 7.3 The recent judgement in 'Mordue' has clarified that, with regards to the setting of Listed Buildings, where the principles of the NPPF are applied, this is in keeping with the requirements of the 1990 Act.
- 7.4 With regards to Policy SS6 of the Core Strategy requires that the effects of a scheme on heritage assets is assessed, as has been completed in the analysis above.
- 7.5 Core Strategy Policy LD4 requires that development proposals protect, conserve, and where possible enhance heritage assets and their settings in a manner appropriate to their significance. As only minor and negligible impacts upon assets have been identified, which should be weighed against the public benefits of the scheme as required by the NPPF, there is considered to be no conflict with this policy. This policy, which was adopted after the NPPF was, cannot be so restrictive that it allows no harm, as this would be contrary to the NPPF.

## **8. REASON FOR REFUSAL AND CONSULTATION RESPONSES**

### **Reason for refusal**

- 8.1 The reason for refusal states that by virtue of the inappropriate location, scale and need for the removal of the hedgerow, the proposed development would harm and fail to enhance the setting of the Conservation Area, Church Stile Farm, Church of St James and Buryfield Cottage, contrary to Policies SS6 and LD4. However, if these policies did not allow for any harm to the assets or only their enhancement, they would be overly restrictive and contrary to the NPPF which requires that such harm

is weighed against the public benefits of the proposed scheme, and this cannot be correct. Rather such harm, which I consider to be negligible less than substantial harm for the Conservation Area and Buryfield Cottage and less than substantial at the lower end of the spectrum for Church Stile Farmhouse (and no harm to St James Church) should be weighed in the planning balance. This weighing is carried out in Mr Stentiford's Statement.

### **Consultation Responses**

- 8.2 Consultation responses were received from the Hereford Council Senior Building Conservation Officer, Ms Sarah Lowe, in a memorandum dated 20<sup>th</sup> July 2016, and from Historic England, in a letter from Mr Steven McLeish dated 5<sup>th</sup> August 2016 (Appendix 12).
- 8.3 Historic England recommended that the application was refused or withdrawn due to harm to the church, Church Stile Farmhouse and the Conservation Area. No balancing exercise of harm against public benefits was attempted or highlighted as the next step for someone else to undertake.
- 8.4 I would make the following points on the contents of Historic England's response:
- 8.5 It is stated that the *'immediate rural setting of the Conservation Area is notable for its high visual and landscape quality which contributes considerably to the character, appearance and experience of the Conservation Area and numerous Listed buildings.'* I would point out that the Conservation Area appraisal, the purpose of which is to articulate special interest, did not recognise this context as considerably contributing to the significance of the area.
- 8.6 Mr McLeish states that the site is particularly evident in important views into and out of the Conservation Area. With regards to these, he includes views from the north, although as demonstrated by Plate 22 above, the site is not prominent in such views. He also includes views along Vinesend Lane, although again as demonstrated by Plate 21 this is also not the case.
- 8.7 The site does lie in the foreground in views west from the footpaths, as shown by plate 11. However, these are not key identified views in the Conservation Area Appraisal and do not make a considerable contribution to the heritage significance of the area. These views already have modern housing in them. The core of the



Conservation Area is not readily discernible in this view, which was evaluated in the winter at maximum visibility.

- 8.8 Mr McLeish also states that the site's eastern edge is also prominent in views looking east out of the Conservation Area to Lumbridge Hill. It is not clear from where this view is considered to be. Certainly, views in the core of the Conservation Area are constrained by vegetation and the sides of the hollow way (Plate 20) and the fields to the west of the site are not publicly accessible. Some views from the footpath in the western area of the site would be obscured, but this does not lie in the Conservation Area. Furthermore, the eastern area of the site is proposed to be community garden and vineyard, rather than containing built form.
- 8.9 With regards to Mr McLeish's assessment of harm to the experience of Church Stile Farm through the change to the approach, he does not mention that the current approach is a mid-20<sup>th</sup>-century realignment or that the site was not part of the historic landholding of the farm.
- 8.10 Mr McLeish also states that the church features prominently within a number of views into the village within the context of the site, but does not mention any specific views. The photographs provided above demonstrate that in views to the church that include the site or from the site, the tower is not prominent but is heavily filtered by vegetation (Plates 11 and 12). Also, in views from closer to the church, views to the site are heavily filtered by vegetation (Plate 13, 14 and 15). No key views as identified by the Conservation Area appraisal would be disrupted.
- 8.11 This response neither attempts to undertake a balancing exercise of harm against public benefits or articulates the harm in a way that would allow another individual to do so.
- 8.12 The response from the Senior Conservation Officer, Ms Sarah Lowe identifies harm to the Conservation Area, Church Stile Farm, the Conservation Area and Buryfield Cottage too.
- 8.13 With regards to the contents of the response, I would make the following comments:
- 8.14 Again, the site is largely obscured in views from the north and west until very close to the site itself (Plate 22). My assessment was undertaken in winter when screening from vegetation was at its minimum.

- 8.15 The hedgerow outside the Conservation Area that may be removed does not make a large contribution to its significance, and the layout is not fixed. It is not identified in the Conservation Area Appraisal, and lies to the south of modern housing.
- 8.16 There are other examples of cul-de-sacs *within* the Conservation Area, including the prominent Brookside development.
- 8.17 To state that the harm to the Conservation Area, Church Stile Farmhouse and Church of St James would be at the mid to upper range of less than substantial harm is clearly greatly overstating the harm. Substantial harm is that which would *'have such a serious impact on the significance of the asset that its significance was either vitiated altogether or very much reduced'*<sup>9</sup>. To suggest that the harm resulting from the proposed development would be approaching this (as harm at the upper end of less than substantial harm would) is greatly overstating the harm.
- 8.18 The setting of Church Stile Farm is not one *'of an agricultural landscape unchanged for centuries'*, as stated by Ms Lowe. The farm was once surrounded by now-removed orchards; the access track has been realigned in the mid 20th century (Plate 2); and the site was not historically part of the landholding of the farm (as demonstrated by the Tithe Map and Apportionment).
- 8.19 The proposals would not remove *'the majority of that rural setting [of Buryfield Cottage] that remains'*. The field to the south of the cottage and to the east of the site, with which it has greater intervisibility, would remain unaltered (Plate 18).
- 8.20 With regards to the Church of St James, as discussed above, views to it that also include the site are heavily filtered by vegetation, as shown by plates 11 and 12 above.

## 9. CONCLUSION

- 9.1 In conclusion, the proposed development would result in no harm the Church of St James; negligible less than substantial impacts on Buryfield Cottage and the Conservation Area; and less than substantial harm at the lower end of the spectrum to Church Stile Farmhouse.

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<sup>9</sup> EWHC 2847, R DCLG and Nuon UK Ltd v. Bedford Borough Council (Appendix 5)

- 9.2 With regards to Church Stile Farmhouse, the site makes a minor contribution to the significance of the asset as part of the current landholding; as land adjacent to the access; and as land from which a view of the farmhouse is possible. However, the site does not lie adjacent to the farmhouse, but lies beyond adjacent pasture that will not be changed. It was not part of the historic landholding of the farm. It has a partial backdrop of modern houses in views from the farmhouse, which faces west rather than north to the site. The current access track is a min-20<sup>th</sup>-century realignment in its current form. Overall, the change of character of the site and re-alignment of the access track is considered to result in less than substantial harm to the significance of this asset at the lower end of the spectrum.
- 9.3 With regards to Buryfield Cottage, the setting of this asset has been greatly changed by modern development to the west north and east. It does have views to fields to the south, across which there are filtered views of the church. The site lies in the wider setting. The change of the character of the site would result in negligible harm to the significance of this asset through setting.
- 9.4 Heavily filtered views of the site are possible from the vicinity of the Church of St James, and heavily filtered views of the tower are possible from the vicinity of the site in conjunction with the site, and from the site itself. However, these views are not considered to make an appreciable contribution to the significance of the asset. Those areas of the setting of the asset that contribute to its significance, such as the churchyard and adjacent historic buildings will not be affected. No harm to this heritage asset is anticipated.
- 9.5 With regards to the Conservation Area, the site is not part of the areas of open agricultural land that contribute most to the significance of the asset; these were included with the area that was designated. The site does not lie in any key views as identified by the Conservation Area appraisal. Whilst it is visible in on approaches from the north and west, it is largely obscured in these views until adjacent to it, and in views from the footpaths to the east in which it is clearly visible, the historic core of the Conservation Area is not readily visible. The hedgerow that will be removed is at least partially of mid 20<sup>th</sup>-century date, and further hedgerow will remain to the north-east and east. The anticipated harm to the Conservation Area as a whole through changes to its setting are considered to be negligible less than substantial harm.



- 9.6 Paragraph 134 of the NPPF requires that such harm to designated heritage assets should be weighed against the public benefits of the proposed scheme. This weighing exercise is addressed by the Planning Appeal Statement having regard to the limited harm found by the above assessment.