

# AGENDA

## Planning Committee

Date: **Wednesday 17 July 2013**

---

Time: **10.00 am**

---

Place: **The Council Chamber, Brockington, 35 Hafod Road,  
Hereford**

---

Notes: Please note the **time, date** and **venue** of the meeting.

For any further information please contact:

**Ricky Clarke, Democratic Services Officer**

Tel: 01432 261885

Email: [rclarke@herefordshire.gov.uk](mailto:rclarke@herefordshire.gov.uk)

---

If you would like help to understand this document, or would like it in another format or language, please call Ricky Clarke, Democratic Services Officer on 01432 261885 or e-mail [rclarke@herefordshire.gov.uk](mailto:rclarke@herefordshire.gov.uk) in advance of the meeting.

# **Agenda for the Meeting of the Planning Committee**

## **Membership**

**Chairman**

**Councillor PGH Cutter**

**Vice-Chairman**

**Councillor BA Durkin**

**Councillor PA Andrews**

**Councillor AM Atkinson**

**Councillor AN Bridges**

**Councillor PJ Edwards**

**Councillor DW Greenow**

**Councillor KS Guthrie**

**Councillor J Hardwick**

**Councillor JW Hope MBE**

**Councillor MAF Hubbard**

**Councillor RC Hunt**

**Councillor Brig P Jones CBE**

**Councillor JG Lester**

**Councillor RI Matthews**

**Councillor FM Norman**

**Councillor AJW Powers**

**Councillor GR Swinford**

**Councillor PJ Watts**

## AGENDA

		Pages
1.	<b>APOLOGIES FOR ABSENCE</b> To receive apologies for absence.	
2.	<b>NAMED SUBSTITUTES (IF ANY)</b> To any details of Members nominated to attend the meeting in place of a Member of the Committee.	
3.	<b>DECLARATIONS OF INTEREST</b> To receive any declarations of interest by Members in respect of items on the Agenda.	
4.	<b>MINUTES</b> To approve and sign the Minutes of the meeting held on 26 June 2013.	7 - 20
5.	<b>CHAIRMAN'S ANNOUNCEMENTS</b> To receive any announcements from the Chairman.	
6.	<b>APPEALS</b> To be noted.	21 - 22
7.	<b>S1235920 - LAND OFF BREINTON LEE, KINGS ACRE ROAD, HEREFORD</b>  Proposed outline permission for a residential development of 15 no. dwellings with associated infrastructure including alterations on A438 + drainage and landscaping with all matters reserved except for access.	23 - 48
8.	<b>N123316F - LOWER HENGOED, HUNTINGTON, KINGTON, HR5 3QA</b>  Erection of polytunnels to cover cherry orchard and construction of a balance pond.	49 - 66
9.	<b>S122524F - FERRYMEAD, 14 VILLA STREET, HEREFORD, HR2 7AY</b>  Change of use of dwelling into 3 no. apartments.	67 - 74
10.	<b>131292FH - THE HOLT, VILLA STREET, HEREFORD, HR2 7AY</b>  Proposed alterations to driveway.	75 - 80
11.	<b>130541O - THE PADDOCK OFF PERRYSTONE LANE, TUPSLEY, HEREFORD</b>  Outline application for 17 no. affordable dwellings.	81 - 90
12.	<b>131071F - LAND AT LEYS FARM, TARRINGTON, HEREFORD, HR1 4EX</b>  Part retrospective change of use of rearing of game birds, cold storage of associated equipment, storage of animal feeds and agricultural chemicals, seed and fertiliser, including the erection of 2 feed silos.	91 - 96
13.	<b>DATE OF NEXT MEETING</b>  Date of next site inspection: 6 August 2013 Date of next meeting: 7 August 2013	



## **The Public's Rights to Information and Attendance at Meetings**

### **YOU HAVE A RIGHT TO: -**

- Attend all Council, Cabinet, Committee and Sub-Committee meetings unless the business to be transacted would disclose 'confidential' or 'exempt' information.
- Inspect agenda and public reports at least five clear days before the date of the meeting.
- Inspect minutes of the Council and all Committees and Sub-Committees and written statements of decisions taken by the Cabinet or individual Cabinet Members for up to six years following a meeting.
- Inspect background papers used in the preparation of public reports for a period of up to four years from the date of the meeting. (A list of the background papers to a report is given at the end of each report). A background paper is a document on which the officer has relied in writing the report and which otherwise is not available to the public.
- Access to a public Register stating the names, addresses and wards of all Councillors with details of the membership of Cabinet and of all Committees and Sub-Committees.
- Have a reasonable number of copies of agenda and reports (relating to items to be considered in public) made available to the public attending meetings of the Council, Cabinet, Committees and Sub-Committees.
- Have access to a list specifying those powers on which the Council have delegated decision making to their officers identifying the officers concerned by title.
- Copy any of the documents mentioned above to which you have a right of access, subject to a reasonable charge (20p per sheet subject to a maximum of £5.00 per agenda plus a nominal fee of £1.50 for postage).
- Access to this summary of your rights as members of the public to attend meetings of the Council, Cabinet, Committees and Sub-Committees and to inspect and copy documents.

### **Public Transport Links**

- Public transport access can be gained to Brockington via the service runs approximately every 20 minutes from the City bus station at the Tesco store in Bewell Street (next to the roundabout junction of Blueschool Street / Victoria Street / Edgar Street).
- The nearest bus stop to Brockington is located in Vineyard Road near to its junction with Old Eign Hill. The return journey can be made from the same bus stop.

## HEREFORDSHIRE COUNCIL

BROCKINGTON, 35 HAFOD ROAD, HEREFORD.

### FIRE AND EMERGENCY EVACUATION PROCEDURE

In the event of a fire or emergency the alarm bell will ring continuously.

You should vacate the building in an orderly manner through the nearest available fire exit.

You should then proceed to Assembly Point **A** which is located in the circular car park at the front of the building. A check will be undertaken to ensure that those recorded as present have vacated the building following which further instructions will be given.

Please do not allow any items of clothing, etc. to obstruct any of the exits.

Do not delay your vacation of the building by stopping or returning to collect coats or other personal belongings.



Where possible this agenda is printed on paper made from 100% Post-Consumer waste. De-inked without bleaching and free from optical brightening agents (OBA). Awarded the Nordic Swan for low emissions during production and the Blue Angel environmental label

HEREFORDSHIRE COUNCIL

**MINUTES of the meeting of Planning Committee held at Council Chamber, Brockington, 35 Hafod Road, Hereford on Wednesday 26 June 2013 at 10.00 am**

**Present:** Councillor PGH Cutter (Chairman)

**Councillors:** PA Andrews, AM Atkinson, AN Bridges, PJ Edwards, DW Greenow, KS Guthrie, J Hardwick, JW Hope MBE, MAF Hubbard, Brig P Jones CBE, JG Lester, RI Matthews, FM Norman, AJW Powers and GR Swinford

**In attendance:** Councillors MJK Cooper and A Seldon

**15. APOLOGIES FOR ABSENCE**

Apologies were received from Councillors BA Durkin, RC Hunt, PJ Watts.

**16. NAMED SUBSTITUTES (IF ANY)**

In accordance with paragraph 4.1.23 of the Council's Constitution, Councillor P Rone attended the meeting as a substitute member for Councillor BA Durkin.

**17. DECLARATIONS OF INTEREST**

9. 130321/F - Land at Station House, Stoke Edith, Hereford, HR1 4EY.  
Councillor AN Bridges, Disclosable Pecuniary, The Councillor is an employee of Network Rail who had objected to the application.

8. N123540/F - Tyrells Court, Stretford, Leominster, HR6 9DQ.  
Andrew Banks (Officer), Non-Pecuniary, The Officer knows one of the objectors outside of work.

**18. MINUTES**

The Democratic Services Officer advised that Councillor Knipe had requested an amendment to the minutes in respect of application number 130351/F. He had requested that the bullet point stating that "Correspondence started with the Council in 2008" be replaced with "Hereford Eco Village was incorporated in 2008".

**RESOLVED:** That subject to the amendment detailed above, the Minutes of the meeting held on 5 June 2013 be approved as a correct record and signed by the Chairman.

**19. CHAIRMAN'S ANNOUNCEMENTS**

**20. APPEALS**

The Planning Committee noted the report.

**21. 130907/O - PORTHOUSE FARM, TENBURY ROAD, BROMYARD, HEREFORDSHIRE**

The Assistant Director Economic, Environment & Cultural Services addressed the Committee prior to the case officer's presentation. He drew their attention to four matters, namely the Planning Inspectors decision regarding the previous application; issues regarding costs; the

relationship between the UDP and the LDF and localism/neighbourhood planning and the decision making process.

The Principal Planning Officer gave a presentation on the application covering a number of issues, including:

- There were 7 trees on the site which would be protected through tree preservation orders.
- The application was for outline permission with only the access to be determined at this stage.
- The shortfalls of the previous unilateral understanding were explained and members were advised that this had now been replaced with a Section 106 agreement which was enforceable,

Updates / additional representations received following the publication of the agenda were provided in the update sheet. The Principal Planning Officer drew Members' attention to the response from the Independent Noise Consultant who had found six reasons why he considered the noise report commissioned by the Town Council to be unsound.

In accordance with the criteria for public speaking, Mr Page, representing Bromyard and Winslow Town Council, spoke in objection to the application and Mr Wilson, the applicant's agent, spoke in support..

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor A Seldon, one of the local ward members, commented on a number of issues, including:

- The Town Council's sound engineer had responded to the comments in the Members' update sheet with the following points;
  - PPG24 had been used as it was the main document referred to in the report. The NPPF which had replaced PPG24 did not contain guidance for the control of noise. The NPPF guidance also stated that applications should be approved or denied following consultation with local inhabitants, had this been done?
  - The Colin Waters report was not referenced in the AVT report, however the Colin Waters report was also based on PPG24
  - The substitute background survey location was agreed with Mr Thorne of Acoustic Associates, a consultant employed by the applicant.
  - The noise control measures would not reduce the intermittent noise from the fork lift trucks and therefore the +5dB penalty should still be applied.
  - BS4142 should not be used when both the background and rating noise levels are both very low. In this case only the background noise level was considered as very low so BS4142 was still appropriate.
  - PPG24 and BS4142 both considered external noise levels. BS8233 was used to assess internal noise and was not used to assess the impact on amenity and therefore was not used.
- The 2007 Inspector's report stated that it would be an economic disaster if future complaints led to a move from Polytec Holden.
- The application could be refused if material planning considerations outweighed the benefits of the application. Noise was a significant and material planning consideration.



- The minutes from the UDP working group shows that officers were concerned about noise levels.
- In February 2012 permission was sought for the application with just a 4 metre bund to reduce noise, a committee deferral led to a 6 metre high acoustic fence being added.
- The acoustic fence had a surface of 8000 m<sup>2</sup> and would therefore clearly have a visual impact.
- There were other suitable sites for housing in Bromyard.
- The Town Council had compiled a list of 20 companies who were interested in developing the site for employment use but had not been able to do so.
- The Inspector had approved 87 dwellings on the site. If development is approved on the site it should be limited to 87 dwellings.
- The 2005 noise report detailed a dispute in respect of noise criteria between the Environmental Health department and the noise consultant.
- The employment land at Linton had now been withdrawn and had resulted in no employment land at all being allocated in Bromyard.
- The density of the site was too high at 44 dwellings per hectare.
- The affordable housings would be located nearest to the source of noise and would act as an additional noise buffer. The Strategic Housing Officer also shared this concern.

Councillor JG Lester, the other local ward member, also commented on a number of issues, including:

- The application was controversial with the land originally being designated for employment.
- The Inspector made a decision based on two assumptions, that there was alternative employment land and that the issues regarding the neighbouring land use could be overcome.
- The noise attenuation measures suggested in February 2012 were insufficient and resulted in the application being deferred for further measures to come forward.
- When the application was brought back to the Committee it was accompanied by a unilateral undertaking which had been proved inadequate by the Inspector.
- The Planning Committee had highlighted weaknesses in the case at both previous meetings.
- The lack of a five year housing supply as required by the National Planning Policy Framework did not mean that every application had to be granted.
- The employment land at Linton had not been deemed undeliverable and no new employment land was forthcoming.
- The application site was changed from employment land on the grounds that the noise issues could be mitigated.
- Polytec Holden were currently in the process of expanding their operation.
- Dwellings on the site would need double glazing and alternative ventilation as windows could not be left open due to the noise. Residents would not be able to enjoy their gardens.
- Affordable dwellings would be nearest the source of noise and act as a buffer.
- The Inspector considered that the scale of the acoustic fence was not excessive.

- At 6 metres high the fence would have to be of substantial structure to avoid wind damage.
- The cost of maintaining the acoustic fence would also be substantial.
- The Inspector had stated that the decision to purchase dwellings on the site would be left up to the purchaser. This may not be the case for affordable homes.
- Some concern was expressed regarding the enforcement of the proposed Section 106 agreement.

The debate was opened with a member of the committee speaking in objection to the application. He voiced a number of concerns relating to the following issues:

- The Town Council had taken advice from Mr Humphries QC who had advised that BS4142 was the correct methodology when the predominant noise was industrial. A fact that had been agreed by the Principal Planning Officer in his letter dated 9 July 2010.
- The Planning Inspector who had considered the Unitary Development Plan had permitted residential development for 87 dwellings on the site.
- Development on the site could endanger the future of Polytec Holden, Bromyard's largest employer, employing over 320 people.
- There was no alternative employment land in Bromyard as the Linton site had now been proved to be undeliverable and the Panniers Lane site had recently been withdrawn. Bromyard should not be deprived of this vital employment land.
- The Unitary Development Plan required an 8/20 ratio for housing and employment land, therefore Bromyard would require nearly 1 hectare of employment land if the proposed site was developed for housing. This was a material planning consideration as confirmed by Mr Humphries QC.
- The application was premature as the future development plan was due to come before full Council in the next month.
- The site size was stated as 3.7 hectares in the Unitary Development Plan, however the proposed site was now 3.9 hectares with the additional 0.2 hectares being adjoining employment land which had been incorporated into the site, this was contrary to policy E5 of the UDP.
- The Inspector had concluded that 87 dwellings with a 0.8 hectare buffer zone would be acceptable; however the proposed buffer zone had now been reduced to 0.5 hectares. This resulted in a density of 37 dwellings per hectare which was considered to be too high.
- The report was unclear regarding the long term maintenance of the 6m acoustic fence and the SUDS ponds.
- The indicative plan showed 23 of the 44 affordable houses to be nearest the source of noise. It was considered that the affordable houses were being built as a noise buffer.

The Member then moved that the application be refused, contrary to the case officer's recommendation, for the following reasons:

- Noise: with particular reference given to Unitary Development Plan Policies DR2 and DR13; National Planning Policy Framework paragraph 123; and Core Strategy Objective 8.
- Lack of employment land: with particular reference given to UDP policy 6.3.5; NPPF paragraphs 7, 9, 17, 21, 37 and 158; and Core Strategy Objective 6.

- Prematurity: Granting permission on the site may predetermine Core Strategy decisions about the scale and location of employment land in Bromyard.
- The application site: It was not clear whether the application site was valid given that it incorporated 0.2ha of adjacent “safeguarded employment land”, contrary to policy E5 which only allowed the use of such land for another purpose “where the site or premises concerned can be shown to be unsuitable for other employment uses”. It was further noted that the 0.8ha buffer zone recommended by the UDP Inspector had been reduced by almost 40%. This was likely to have a significant detrimental effect on residential amenity, contrary to UDP policies DR2 and DR13.
- Density: The UDP Inspector had envisaged 87 dwellings on 2.9 hectares at a density of 30dph however the application requested 127 dwellings on 3.4 hectares at a density of 37 dph. This was considered to be overdevelopment of the site.
- Maintenance of open space, SUDS ponds and acoustic fence: The long term maintenance was not clear and was therefore contrary to NPPF paragraph 176. Furthermore it was not considered appropriate for the Council to take responsibility for the open space and the children’s play area at a cost to the County’s residents.
- Affordable housing: The proposal appears to place 23 of the 44 affordable houses nearest to the source of noise therefore forming a secondary noise barrier to the remainder of the development.

The motion was seconded by another member who spoke in objection to the application. He concurred with the previous speaker but also voiced concerns in respect of visual impact as a result of the erection of a six metre acoustic fence between the application site and the neighbouring Polytec Holden site.

Members continued to discuss the application and had concerns regarding the lack of employment land in Bromyard following the withdrawal of the Panniers Lane site from the LDF. Concern was also expressed regarding noise from the Polytec Holden site with Members being concerned for the future of the business if the dwellings were erected on the neighbouring site.

One Member voiced his concerns regarding the possible refusal of the application site which had been allocated for housing in the Unitary Development Plan. He noted that the Council had already been ordered to pay costs of £27000 following the refusal of the previous application on the site and warned that the costs could be significantly higher if the current application was refused.

Another Member of the Committee questioned why the application site had been designated for housing in the UDP and considered that this may have been a bad decision at the time. He echoed the concerns regarding possible costs if the application was refused but considered that this was not a good basis to determine the application.

In response to questions raised during the debate, the Principal Planning Officer advised that although the proposed fence was 6 metres high, the bund immediately in front of it was 4 metres resulting in just 2 metres of visible fence. He advised that the owners of the Polytec Holden site had not objected to the application and that the current application for the expansion of the Polytec Holden site was purely an expansion on its existing site.

Councillors Seldon and Lester were given the opportunity to close the debate. They reiterated their opening remarks and made additional comments, including:

- It would be a social and economic disaster if Polytec Holden withdrew from Bromyard as a result of the proposed development.
- The proposed residential development was clearly in the wrong place

Before the vote the Head of Neighbourhood Planning addressed the Committee. He noted that the previous application had been refused on three grounds, namely: noise; impact of the lighting from Bromyard Rugby Club; and inappropriate land use. He noted that a number of different reasons had been put forward by the Committee in this instance. He also voiced concern that an application on an allocated housing site in the UDP could be refused, however he advised that he would not request a Further Information Report if the Committee were minded to determine the application.

**RESOLVED:**

**THAT the application be refused for the following reasons:**

**Noise:** The application was contrary to Herefordshire Unitary Development Plan Policies DR2 and DR13, paragraph 123 of the National Planning Policy Framework and Objective 8 of the Draft Herefordshire Local Plan: Core Strategy 2011-2031.

**Lack of employment land:** The application was contrary to UDP policy 6.3.5; NPPF paragraphs 7, 9, 17, 21, 37 and 158; and Objective 6 of the Draft Herefordshire Local Plan: Core Strategy 2011-2031.

**Prematurity:** Granting permission on the site may predetermine Core Strategy decisions about the scale and location of employment land in Bromyard.

**The application site:** It was not clear whether the application site was valid given that it incorporated 0.2ha of adjacent “safeguarded employment land”, contrary to policy E5 which only allowed the use of such land for another purpose “where the site or premises concerned can be shown to be unsuitable for other employment uses”. It was further noted that the 0.8ha buffer zone recommended by the UDP Inspector had been reduced by almost 40%. This was likely to have a significant detrimental effect on residential amenity, contrary to UDP policies DR2 and DR13.

**Density:** The UDP Inspector had envisaged 87 dwellings on 2.9 hectares at a density of 30dph however the application requested 127 dwellings on 3.4 hectares at a density of 37 dph. This was considered to be overdevelopment of the site and would be harmful to the character and appearance of the site and surrounding locality contrary to policies S1, S2, DR1, H13 and H15 Herefordshire Unitary Development Plan Policies and the National Planning Policy Framework.

**Maintenance of open space, SUDS ponds and acoustic fence:** The long term maintenance was not clear and was therefore contrary to Policies S1, S2, DR2, DR4, and DR13 of the Herefordshire Unitary Development Plan as well as NPPF paragraph 176. Furthermore it was not considered appropriate for the Council to take responsibility for the open space and the children’s play area at a cost to the County’s residents.

**Affordable housing:** The proposal appears to place 23 of the 44 affordable houses nearest to the source of noise therefore forming a secondary noise barrier to the remainder of the development. This would be contrary to Policies DR1 and H13 of Herefordshire Unitary Development Plan and constitute poor design in relation to the National Planning Policy Framework contrary to Herefordshire Unitary Development Plan policy H13.

## **22. N123540/F - TYRELLS COURT, STRETFORD, LEOMINSTER, HR6 9DQ**

The Principal Planning Officer gave a presentation on the application and updates / additional representations received following the publication of the agenda were provided in the update sheet.

In accordance with the criteria for public speaking, Mr Simpson, representing some of the local residents, spoke in objection to the application and Mr Telford, representing the applicant, spoke in support.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor MJK Cooper, the local ward member, commented on a number of issues, including:

- The local residents support Tyrell's as a brand but had concerns in respect of further development on the site.
- Members' attention was drawn to a greetings card of Dilwyn highlighting the landscape.

Members were generally in support of the application; however they noted the concerns raised by the Transport Manager and the Conservation Manager. The success of the Tyrell's brand was recognised but Members had sympathy with the neighbouring residents who voiced concerns in respect of the application and the operation as a whole.

The Committee noted the applicant's comments stating that this would be the final development on the site. This statement was welcomed as the committee considered that any further development would be difficult to support.

The current transport issues around the site were also discussed. Members noted that the applicant had offered to provide CCTV on the site in order to monitor the compliance of the existing traffic management plan. This was welcomed and the Committee requested that the provision of CCTV be a condition of any planning approval on the site.

Members continued to discuss the expansion of the existing site. A number of Members voiced concern in respect of any additional development with the suggestion being that Tyrell's should consider relocating to an industrial unit within the County. Other Members noted that the Tyrell's brand had been built on a farm diversification and considered that the business needed to remain on its existing site.

Councillor Cooper was given the opportunity to close the debate. He reiterated his opening remarks and made additional comments, including:

- The Committee needed to note the concerns of the Traffic Manager.
- Tyrell's already had a storage unit on Enterprise Park in Leominster. They should consider relocating more of the business to this site.
- There has not been enough dialogue between Tyrell's and the local residents.

### **RESOLVED**

**That planning permission be granted subject to the following conditions:**

- 1. A01 Time limit for commencement (full permission)**
- 2. B01 Development in accordance with the approved plans**

3. The development hereby approved shall not be commenced until the first chimney stack approved on the site to service existing production plant in building 3, as approved under application reference N121981/F, is fully implemented and operational.

Reason: In order to ensure that existing odour mitigation measures are implemented before any further development occurs on the site, and to comply with Policy DR4 of the Herefordshire Unitary Development Plan.

4. The chimney stack hereby approved shall be coloured a matt grey/blue colour, the precise detail of which shall be submitted to and approved in writing by the local planning authority prior to its installation. The development shall be carried out in accordance with the approved details.

Reason: In order to mitigate the visual impact of the development and to comply with Policies E8 and LA2 of the Herefordshire Unitary Development Plan.

5. A detailed site-wide landscape and ecological assessment and management plan shall be submitted to and approved in writing by the local planning authority prior to the commencement of development. The provisions of the management plan shall be implemented in the first planting season preceding the commencement of development and shall be maintained thereafter.

Reason: In order to provide some compensation for the visual impact of the development and to comply with Policies LA6 and NC8 of the Herefordshire Unitary Development Plan.

6. In the event that the chimney stack hereby permitted becomes redundant, inoperative or permanently unused for a period in excess of six months, it, and its entire associated infrastructure, shall be permanently removed from the site.

Reason: The chimney stack has been permitted to address concerns about odour emanating from the site. Should it become redundant, its visual impact would be unwarranted, contrary to Policy LA2 of the Herefordshire Unitary Development Plan.

7. Prior to the commencement of development hereby approved being first brought into use, a revised Traffic Management Plan shall be submitted to and approved in writing by the Local Planning Authority. These shall be carried out in accordance with the revised Traffic Management Plan in perpetuity.

Reason: In the interests of protecting local amenities and having regard to highway safety in accordance with policies DR1, DR2 and DR3 of the Herefordshire Unitary Development Plan.

**Informative:**

1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

2. **The revised Traffic Management Plan referred to by condition 7 above should include measures to monitor vehicle movements along the B4457.**

**23. 130321/F - LAND AT STATION HOUSE, STOKE EDITH, HEREFORD, HR1 4EY**

The Principal Planning Officer gave a presentation on the application and updates / additional representations received following the publication of the agenda were provided in the update sheet.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor J Hardwick, the local ward member, commented on a number of issues, including:

- The application was supported by the Parish Council and the local residents.
- The applicant had liaised with the community in bringing forward an acceptable application.
- Network Rail felt that a solution could be found.

Members were advised that the application had only come before Committee as it was contrary to policy.

**RESOLVED**

**That subject to the resolution of Network Rail's outstanding concerns, Officers named in the Scheme of Delegation be authorised to issue planning permission subject to the following conditions:**

1. **A01 Time limit for commencement (full permission)**
2. **B01 Development in accordance with the approved plans**
3. **C01 Samples of external materials**
4. **F30 Use as holiday accommodation**
5. **H13 Access, turning area and parking**

**Informative:**

1. **The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.**

**24. DATE OF NEXT MEETING**

The Planning Committee noted the date of the next meeting.

**APPENDIX 1 - SCHEDULE OF COMMITTEE UPDATES**





# PLANNING COMMITTEE

26 June 2013

## Schedule of Committee Updates/Additional Representations

**Note: The following schedule represents a summary of the additional representations received following the publication of the agenda and received up to midday on the day before the Committee meeting where they raise new and relevant material planning considerations.**

**7 130907/O - AN OUTLINE APPLICATION FOR THE ERECTION OF UP TO 127 DWELLINGS (35% TO BE AFFORDABLE) WITH ALL MATTERS EXCEPT ACCESS TO BE RESERVED FOR FUTURE CONSIDERATION AT PORTHOUSE FARM, TENBURY ROAD, BROMYARD, HEREFORDSHIRE**

**For: Marsten Developments Ltd per Mr John Wilson, 66 Stratford Road, Shirley, Solihull, West Midlands B90 3LP**

### ADDITIONAL REPRESENTATIONS

A further letter of objection has been received from Bromyard & Winslow Town Council (BWTC). In summary they consider that circumstances have changed since the recent appeal decision for the following reasons:-

- a) Due to the removal of Linton as Industrial/Employment land confirmed in March 2013 which could not have been known by the Planning Committee in April 2012 or by Planning Inspector Burden, and there being no current allocation in situ at this time there is no Industrial/Employment land to match the proposed housing development as required under the UDP and NPPF as mentioned above.
- b) Noise Attenuation Assessments have not been based upon the lawful requirement of BS4142. Therefore the basis of Inspector Burden's assumption that adequate noise attenuation measures could be put in place is fatally undermined.
- c) Given that there is no examined Industrial/Employment land yet allocated for Bromyard & Winslow the application has become premature, and it would be premature to now consider the application at this stage of the Core Strategy – Local Development Framework 2011-2031.
- d) Inspector Burden did not have regard to the maintenance of open space on the development; rather she concentrated only on noise attenuation and future maintenance of such.
- e) The applicants will argue that this is the same application as considered in April 2012 and that they have dealt with the issue raised by Planning Inspector Burden and therefore the application should be approved. However given the reasons above we maintain that this is a new application under new material circumstances that has to be considered in view of these changed circumstances.

BWTC have submitted a report prepared by AV Technology (AVT) to check / review the noise / acoustic submissions and assessments made in relation to this application, the recent appeal and the application the subject of the recent appeal.

That report essentially concludes that the noise is such that complaints from occupiers of the proposed development would be likely. Crucial to their analysis has been their attempt to carry out a background noise survey for the development site that relies upon an "equivalent location". This procedure has been employed so as to get over the difficulty of direct measurement of a background at the actual site. The background noise level is the baseline of such professional assessments.

The agent for the applicant has submitted a further report from CWA (Colin Waters Acoustics) reviewing the AVT report that in summary makes the following critical points:-

- References to PPG24 by AVT are no longer relevant to this matter; and
- The site chosen by AVT is not considered to be equivalent to the development site. The "equivalent site" selected by AVT has not been justified. For this measurement technique to be valid it is required that the user justifies the choice of the chosen site;

It concludes that the previous noise / acoustic reports submitted on behalf of the applicant and reviewed by RPS on behalf of the Council and accepted by the Inspector remain sound.

Two further letters, effectively supporting the application, have been received from the occupier of 'Rosebank', New Road and Andrew Grant Professional Services. They make the following points:-

- the 5 industrial units built after 2006/07 adjacent to this site, upon the Porthouse Industrial Estate, remained vacant for a number of years and rents are low. One has come onto the market again in the last few weeks. There is little or no interest in industrial units in this location due to heavy goods vehicles having to travel through the Town Centre;
- More housing would enhance the Town;
- The proposed development would provide affordable housing for the Town which the young in housing need would wish to be delivered as soon as possible; and
- Polytec have not objected to the planning application.

## **OFFICER COMMENTS**

The issues raised in the further letter of the BWTC are addressed in the report to Committee (including its annexes). The application before Members could not reasonably be considered as premature as there is a policy within the Council's currently adopted Development Plan (i.e. Herefordshire Unitary Development Plan 2007) allocating the site for housing development. This matter was effectively addressed by the Inspector in paragraph 9 of the appeal decision (Annex 2).

With regard the noise / acoustic report commissioned by BWTC, Officers have commissioned the specialist expert advice of RPS Acoustic Consultants who have undertaken a further independent review of that submission. They advise that:-

- a) the use by AVT of PPG24 after it has been revoked is inappropriate;
- b) the AVT report makes no reference to the Colin Waters Acoustics report CWA 26310/R05/1;
- c) they do not consider that the substitute background survey location chosen by AVT is representative;
- d) they do not consider the use by AVT of a +5 rating correction when plant will be non-tonal when mitigated to be appropriate;
- e) the use of BS4142 is inappropriate when noise levels fall around or below the lower levels scoped for; and

- f) no consideration appears to have been given of other noise assessments such as BS8233, which indicates that a good internal noise environment can be achieved.

RPS concludes that:-

“Despite the findings of the AVT report, I consider the conclusions of the CWA and RPS reports still stand and that a satisfactory level of residential amenity can be achieved for the Porthouse Farm development, with the noise mitigation measures secured”

Essentially AVT submit that the background noise level is 24dB with a rating level of 35 dB whilst CWA and RPS submit that the background noise level is 30dB with a rating level of 35dB. A differential of 5dB is normally considered of marginal significance. Furthermore when one applies the World Health Guidelines (WHO) guideline values for community noise and BS8233 the dwellings would in essence achieve a level of quietude around two times what the standard requires.

#### **NO CHANGE TO RECOMMENDATION**

**8 N123540/F - ADAPTATION AND CHANGE OF USE OF STORAGE BUILDING (BUILDING 7) FOR STORAGE AND MANUFACTURING, ADDITIONAL CAR PARKING, EXTERNAL STORAGE TANKS AND THE ERECTION OF A 26 METRE ODOUR STACK AND ASSOCIATED INFRASTRUCTURE AT TYRRELLS COURT, STRETFORD, LEOMINSTER, HR6 9DQ**

**For: Tyrrells Potato Chips Ltd per Drivers Jonas Deloitte, 4 Brindley Place, Birmingham, West Midlands, B1 2HZ**

#### **OFFICER COMMENTS**

Members are advised that an application to vary condition 1 of planning permission N121981/F has been received and validated. The condition required the chimney stack to be constructed and fully operational within 8 months of the date of the permission (by 17<sup>th</sup> June 2013). The application seeks to allow a further 4 months for compliance, so that the stack would be constructed and fully operational by 17<sup>th</sup> October 2013.

The reason for the delay given is that Tyrrells have had difficulty in sourcing a contractor with a proven track record and which could also deliver the development at a commercially realistic cost and within a reasonable timeframe. A preferred contractor has now been selected, and a project programme submitted with the application indicates that the construction of the stack will take place between July and August 2013.

The application is currently under consideration and subject to public consultation.

#### **NO CHANGE TO RECOMMENDATION**



<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>17 JULY 2013</b>
<b>TITLE OF REPORT:</b>	<b>APPEALS</b>

---

**CLASSIFICATION:** Open

## **Wards Affected**

Countywide

## **Purpose**

To note the progress in respect of the following appeals.

## **Key Decision**

This is not a key decision

## **Recommendation**

That the report be noted

## **APPEALS RECEIVED**

### **Application 113607/O**

- The appeal was received on 18 June 2013
- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Planning Permission
- The appeal is brought by Mr Henry May
- The site is located at Tidnor Wood Orchards, Tidnor Lane, Lugwardine, Hereford, HR1 4DF
- The development proposed is a three bedroom detached agricultural dwelling.
- The appeal is to be heard by Hearing

**Case Officer: Mr S Withers on 01432 260612**

### **Application 130060/F**

- The appeal was received on 19 June 2013
- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Planning Permission
- The appeal is brought by The Owner and/or Occupier
- The site is located at Land South of Greytree Road, Greytree, Ross on Wye, Herefordshire
- The development proposed is the erection of 14 no. semi-detached and detached dwellings.
- The appeal is to be heard by Hearing

**Case Officer: Mr A Prior on 01432 261932**

#### **Application 120761/F**

- The appeal was received on 28 June 2013
- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Planning Permission
- The appeal is brought by Mr Roger Sayce
- The site is located at Little Wacton Farm, Bredenbury, Herefordshire, HR7 4TQ
- The development proposed is the conversion of garage/workshop/office to holiday let.
- The appeal is to be heard by Written Representations

**Case Officer: Ms R Jenman on 01432 261961**

#### **Application 122066/F**

- The appeal was received on 2 July 2013
- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Planning Permission
- The appeal is brought by Mrs Susan Willmott
- The site is located at Newtown Inn, Lower Eggleton, Ledbury, Herefordshire, HR8 2UG
- The development proposed is a change of use from A4 drinking establishment to C3 dwelling house
- The appeal is to be heard by Written Representations

**Case Officer: Mr M Tompkins on 01432 261795**

## **APPEALS DETERMINED**

#### **Application 123312/FH**

- The appeal was received on 3 May 2013
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Planning Permission
- The appeal was brought by Mr C J Whittaker
- The site is located at Chances Barn, Barton Farm, Colwall, Malvern, Herefordshire, WR13 6HW
- The development proposed was a proposed entrance lobby/utility room link extension to garage block.
- The main issue was:
  - The effect of the proposed extension on the character and appearance of the host buildings, particularly as Chances Barn is a dwelling arising from the conservation of a rural building, having regard to policies in the development plan and national guidance

#### **Decision:**

- The application was refused under delegated powers on 8 February 2013
- The appeal was dismissed on 19 June 2013

**Case Officer: Mr N Banning on 01432 383093**

If members wish to see the full text of decision letters copies can be provided.



<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>17 JULY 2013</b>
<b>TITLE OF REPORT:</b>	<p><b>S123592/O - PROPOSED OUTLINE PERMISSION FOR A RESIDENTIAL DEVELOPMENT OF 15 NO. DWELLINGS WITH ASSOCIATED INFRASTRUCTURE INCLUDING ALTERATIONS ON A438 + DRAINAGE AND LANDSCAPING WITH ALL MATTERS RESERVED EXCEPT FOR ACCESS AT LAND OFF BREINTON LEE, KINGS ACRE ROAD, HEREFORD</b></p> <p><b>For: Mr Wakeley per Foxley Tagg Planning Ltd, Normandy House, 305-309 High Street, Cheltenham, Gloucestershire, GL50 3SH</b></p>
<b>WEBSITE LINK:</b>	<a href="http://news.herefordshire.gov.uk/housing/planning/58286.aspx?ID=123592&amp;NoSearch=True">http://news.herefordshire.gov.uk/housing/planning/58286.aspx?ID=123592&amp;NoSearch=True</a>

**Date Received: 27 December 2012**    **Ward: Credenhill**    **Grid Ref: 347273,241325**  
**Expiry Date: 22 April 2013**  
Local Member: Councillor RI Matthews

### **Background**

Following the deferral of this item at the Planning Committee meeting on 5 June 2013 further consideration has been given to the drainage strategy proposed and to the access arrangements. These developments are summarised in the section below. This update should be read in conjunction with the original report, which has been also been updated.

### Flooding and Drainage

The scheme that was reported to Planning Committee on 5 June 2013 included a number of measures to ensure that the proposal would not have any adverse off-site drainage impacts as well as proposing improvements to the wider drainage regime in the area. Members were concerned that the measures reported, that included an additional replacement pipe within the highway, and collection of surface water in a new ditch to the rear of 3 and 4 Breinton Lee would have consequences for the dwellings on Kings Acre Road.

The delay in reporting this to Committee has been to allow for the applicants to revisit these issues. The proposed scheme has now been amended and a scheme produced that demonstrates that it can cater for the wider drainage demands of the area. The submitted revised information has been issued for re-consultation and any additional responses received will be reported to Committee as an update.

The revised scheme involves retaining the existing culvert / pipework (following concerns raised by Members about the upgrade of this and the subsequent problems this may cause residents on Kings Acre Road) as well as providing additional storage to accommodate any excess Greenfield run-off

---

Further information on the subject of this report is available from Ms K Gibbons on 01432 261781

from the site and the land to the south in the event of severe / exceptional rainfall events. This will be achieved through the provision and enlargement of balancing ponds. These are detailed on the amended plans.

The northern pond (A) has been increased in area from 183 m<sup>2</sup> to 260m<sup>2</sup> and the area of the southern pond (B) has been increased from 127m<sup>2</sup> to 452.2m<sup>2</sup>. This increases the on-site water capacity from 107m<sup>3</sup> to 255m<sup>3</sup>. Full details of the operation of this have been included in the officers appraisal.

This additional attenuation would compliment the other off-site drainage enhancements that have already been proposed as part of the application or indeed, have already been undertaken.

It is considered that this clearly demonstrates that the development of the site will not add to the existing flooding issues in the area. The proposed improvements will have a significant benefit to existing residents, with surface water run off from the land to the south being collected in new ditches and retained within the balancing pond before being discharged at a Greenfield run off rate to the existing system. This will benefit the dwellings on Brinton Lee that currently do not have the benefit of the ditch to the south of their properties and as such, are on occasion flooded by surface water running from the land to the south. The application has now been amended to ensure that this water can be attenuated within the site and released slowly, which represents a significant betterment to the current situation where there is no attenuation and where the water collected in the ditch discharges to the culvert and subsequently out onto Kings Acre Road.

As such, the proposal would comply with the requirements of Policy DR4 and DR7 of the Unitary Development Plan and would also offer a significant wider benefit to the local area whilst also ensuring that the dwellings on the new development will be protected from flooding as well. The development would also, through a section 106 agreement, ensure the long term maintenance of the proposed ditches and on site drainage system.

#### Consequence of the revised drainage system.

As result of the larger attenuation ponds, the number of dwellings proposed has also reduced to 15 and a revised indicative plan has been proposed detailing this.

A consequence of the reduction in numbers also reduces the number of affordable dwellings from 6 to 5. This continues to ensure that 35% of the overall dwellings are affordable housing in compliance with the requirements of policy H9 of the Unitary Development Plan. These would continue to be 5 low cost market units, built to Sustainable Homes Level 3, Lifetime homes standards. These would comprise 2no. 2 bed units and 3no. 3 bed units.

#### Highways

The application was also deferred by Members on highway grounds so that the history of the adjacent lay-by on the Kings Acre Road could be investigated. The conversion of the existing dwelling at 329 Kings Acre Road, into 4 flats, was approved in 1980 (SH 805/80). There were no conditions attached to this permission.

Further to this the applicants have provided a photograph showing the layby in place before the flats were created. The lay-by is part of the highway and not part of the formal area of parking for these flats. It is understood that this is partially used for service vehicles and visitors, but it should be noted that this area is not being removed in full, and that half of this would be retained. The Transportation Manager raises no objection to this proposal, subject to conditions and the proposed development is considered to comply with the requirements of policy DR3 of the UDP.



## Conclusion

It is important to note that Paragraph 14 of the National Planning Policy Framework (NPPF) requires that there should be a presumption in favour of sustainable development, and that for decision-taking this means:

- Approving development proposals that accord with the development plan without delay; and
- Where the development plan is absent, silent or relevant policies are out of date, granting permission unless:
  - Any adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

It is acknowledged that the Housing Provision policies of the UDP are out of date, and as such significant weight must be given to the requirements of paragraph 49 of the NPPF. It has been demonstrated that this development, in the form now proposed, would comply with the saved policies of the Unitary Development Plan, and that these policies are consistent with the advice contained within the NPPF. The development of houses will meet a demonstrated need for dwellings, including affordable dwellings in the County, and will provide the economic, social and environmental benefits of sustainable development outlined within paragraph 7 of the NPPF. As such, the proposed development is recommended for approval with conditions, and subject to the completion of a section 106 agreement.

## **Updated Report (now refers to 15 dwellings)**

### **1. Site Description and Proposal**

- 1.1 The application site is located within Kings Acre, part of Breinton Parish, approximately 6.5 km to the west of Hereford City Centre. The site is accessed via Breinton Lee on the south side of the A438 Kings Acre Road. Breinton Lee is a predominantly residential cul-de-sac. Immediately to the east of the site are five large detached dwellings situated within a gated development. To the north of the site is a mix of residential and commercial uses, with Cranston Mews including a small office development. Wyevale Garden Centre is located on the opposite site of the A438. To the south and west of the site is agricultural land.
- 1.2 The site is 0.84 ha in size and is previously undeveloped grassland with some trees and shrubs. The site has recently been cleared of some trees and planting. The site is agricultural in nature but is not currently used for this purpose. The site is predominantly square in shape with a small northwards protrusion created by the curvature of the access road to Breinton Lee.
- 1.3 The application is for outline planning permission for a residential development of 15 units (reduced from 18 during the application process) with only access being considered at this stage. All other matters are reserved. The application submission includes indicative layouts within the detailed Design and Access and Planning statements. Detailed information in respect of drainage, biodiversity and highway issues have also been received and considered. A revision during the application process also includes the reduction in length of the lay-by on Kings Acre Road to improve visibility.
- 1.4 The application includes the provision of 35% affordable dwellings (5 units). These are to be provided as low cost market units. The application also refers to the opportunities for some of the open market housing plots to be 'self build'.

### **2. Policies**

#### **2.1 National Planning Policy Framework (NPPF)**

---

Further information on the subject of this report is available from Ms K Gibbons on 01432 261781

The following sections are of particular relevance:

Introduction – Achieving sustainable development

Section 6 – Delivering a wide choice of high quality homes

Section 7 – Requiring Good Design

Section 8 – Promoting healthy communities

Section 11 – Conserving and enhancing the natural environment

## 2.2 Herefordshire Unitary Development Plan (UDP)

S1	-	Sustainable Development
S2	-	Development Requirements
S3	-	Housing
S6	-	Transport
S7	-	Natural and Historic Heritage
S8	-	Recreation, Sport and Tourism
DR1	-	Design
DR2	-	Land Use and Activity
DR3	-	Movement
DR4	-	Environment
DR5	-	Planning Obligations
DR7	-	Flood Risk
H1	-	Hereford and the Market Towns: Settlement Boundaries and Established Residential Areas
H7	-	Housing in the Countryside Outside Settlements
H9	-	Affordable Housing
H13	-	Sustainable Residential Design
H15	-	Density
H16	-	Car Parking
H19	-	Open Space Requirements
LA2	-	Landscape Character
LA3	-	Setting of Settlements
LA5	-	Protection of Important Trees, Woodland and Hedgerows
LA6	-	Landscaping Schemes
NC1	-	Biodiversity and Development
NC6	-	Biodiversity Action Plan Priority Habitats and Species
NC7	-	Compensation for Loss of Biodiversity
NC8	-	Habitat Creation, Restoration and Enhancement
NC9	-	Management of Features of the Landscape Important for Fauna and Flora
ARCH1	-	Archaeological Assessment and Field Evaluations
T6	-	Walking
T7	-	Cycling
T8	-	Road Hierarchy
T11	-	Parking Provision
RST4	-	Standards for Outdoor Playing and Public Open Space
W11	-	Development and Waste Implications
CF2	-	Foul Drainage

## 2.3 Supplementary Planning Documents

Landscape Character Assessment

Planning Obligations

Design

Biodiversity and Development

---

Further information on the subject of this report is available from Ms K Gibbons on 01432 261781

## 2.4 Other Guidance

Strategic Housing Land Availability Assessment  
Annual Monitoring Report  
Urban Fringe Sensitivity Analysis

2.5 The Unitary Development Plan policies together with any relevant supplementary planning documentation can be viewed on the Council's website by using the following link:-

<http://www.herefordshire.gov.uk/housing/planning/29815.aspp>

## 3. Planning History

3.1 SH801075/F – Erection of 6 houses – Refused – Dismissed on appeal 15 June 1981.

3.2 SH892019PO – Erection of 21 Dwellinghouses each with garage and vehicular access thereto – Refused – Dismissed on appeal 19 December 1990.

3.3 SH930858PO – Erect 23 detached houses with associated garages / parking accessed from internal site road – Refused – Dismissed on appeal 19 October 1994.

## 4. Consultation Summary

### Statutory Consultees

4.1 Welsh Water recommends conditions are attached to any permission.

### Internal Council Advice

4.2 The Transportation Manager makes the following comments: The application has been amended to include proposals to partially close the existing layby on A438 east of Breinton Lee, which will improve the guaranteed visibility for the junction. Details of these works should be submitted at the reserved matters or full application stage.

The indicative sketch plan layout would provide a satisfactory layout and access point from Breinton Lee, subject to provision of adequate parking and compliance with our Highways Design Guide. Recommend approval subject to conditions.

4.3 The Conservation Manager (Ecology) makes the following comments:

I have the following comments to make:

- On my second visit, I was disappointed to find that most of the trees and shrubs had been removed since my first visit and since the production of the ecology reports; I had been led to believe that some of these would be retained post-development in addition to the two trees that remain standing. There are conflicting statements in the ecological report regarding retention of existing vegetation, which now appears to have been removed. The report also recommends that the fruit tree varieties be identified – was this done before they were removed?
- Historical records indicate that the site was part of the King's Acre Nursery and some of the trees and shrubs must have related to this, including fruit trees/orchard habitat; other species such as goat willow have probably self-seeded.

- There is evidence of badgers, including setts, at the site. The legislation protecting badgers relates to animal welfare rather than nature conservation issues. The report recommends closure of the sett under a license from Natural England to ensure there is no physical harm to the animals.
- The reptile surveys did not find any evidence of their presence and no mitigation is required.
- The proposals for provision of orchard and fruit tree planting at the site are appropriate and welcome, although it is not clear how retention of fruit trees planted in individual gardens can be secured. A fully detailed scheme for habitat creation and the future management of the areas of public open space will need to be secured by planning condition if this application is to be approved. The habitat creation scheme should also include full details of the numbers, types and locations of bat and bird boxes that are to be installed.
- The information regarding SUDS is rather limited. The ecological report states that a permanent pond is proposed in the NW corner of the site, but it's not clear how this will function as part of the SUDS. I would welcome a permanent water feature as part of the SuDS - full details will need to be submitted, including any biodiversity enhancements associated with it. I note that the provisional layout indicates that a wildflower meadow will also be provided in this area; I presume that this will include species that can tolerate temporary inundation where it is to be part of the SUDS.

If this application is to be approved, I recommend the inclusion of non-standard conditions.

#### 4.4 The Conservation Manager (Landscapes) makes the following comments:

The site was visited July 2012, with pre-application advice provided. The site was visited again 14 February 2013 and it was noted that the site vegetation had been cut down to ground level, other than two important trees that are shown for retention on the site layout plan.

The site has previously been assessed as part of the council's Urban Fringe Sensitivity Analysis and is considered to have medium-low sensitivity and is therefore suitable for housing development.

The inclusion of an arboricultural survey and habitat survey with this application is welcome. It is also considered that the process of design evolution has led to a more suitable possible layout, working with the existing trees and retaining a relatively substantial area of green space to the centre of the site.

If the application is to be approved, then conditions to be considered at reserved matters stage should include:

- Tree protection details
- Hard and soft landscape scheme - including habitat enhancement, SUDs details and boundary treatments. (Please note that the provision of close boarded fence to the road frontage of plots two and three could have a negative impact on the street scene).
- Landscape and ecology management plan.

#### 4.5 The Council Drainage Engineer comments on the revised drainage strategy and updated information as follows:

I have considered the reply of Richard Fillingham to comments dated 8 May 2013 on the above planning application. The reply addresses satisfactorily the matters of topography and susceptibility to flood risk, the existing drainage system, the improvements and maintenance of

the existing system and the design of the drainage for the proposed development. I have no objection to the proposals on the basis of the submission.

4.6 The Parks and Countryside Manager makes the following comments:

#### Layout Evaluation

Paragraph 3.16: It is agreed in principal that the layout can provide opportunities for residents and children to play informally. However, the final design and landscaping plans will need to make it clear which areas could be used and managed as such and are fit for purpose. This is particularly relevant to the pond area to be used as part of the infiltration scheme (SUDS) in respect of health, safety and accessibility. For example, consideration will need to be given to the design of the balancing pond as deep standing water can present a danger if publically accessible and future adoption as POS will be dependent on its final design.

The on-site provision doesn't include a formal play area and this is supported as they offer little in play value and are costly to maintain. Therefore, in accordance with UDP policy H19 and the requirements for 10 – 30 dwellings we would still seek an off-site contribution towards existing facilities. In this instance, existing play provision in the area is outside acceptable walking thresholds but given the potential to develop informal POS on the development site especially for younger children, the applicant has agreed to this approach. The contributions will be spent in consultation with the local community on priorities in accordance with the Play Facilities Strategy and Action Plans, and it is agreed that this will potentially be at Westfaling Street which is the nearest facility and a neighbourhood play facility.

#### Planning Obligations – Draft Heads of Terms

Off-site Public Open Space: paragraphs: 5.10 – 5.12 It is noted that an off-site contribution is to be provided. The amount and details are correct.

Sports Facilities: paragraphs 5.13 – 5.15. It is noted that an off-site contribution is to be provided. The amount and details are correct.

Open Space Maintenance: paragraphs 5.22. It is noted that a total contribution of £40k over 15years is offered. It is not clear how this sum has been calculated or for which "bits" of proposed POS as the plan is only indicative at this stage. Commuted sums can only be calculated on final agreed landscaping designs on agreed areas of POS to be adopted by the Council.

The future maintenance of the SUDS area can only be agreed once the final design has been agreed. If the pond area is suitable for POS it will need to be calculated separately from the main open space maintenance schedule as these areas are individually designed and fall under Highways as described in the Proposed Foul Drainage Strategy: paragraph 6.11 Maintenance and maintenance of infiltration basins.

The future adoption and maintenance of the other informal green spaces will also need to be agreed. The size, location and proposed landscaping (trees) will need to be a consideration as this could impact on whether or not the Council would wish to adopt the areas or if they form part of a management company set up by the housing.

## **5. Representations**

5.1 Breinton Parish Council makes the following comments:

#### Comments on original Submission

Thank you for your letter dated 25 January. Breinton Parish Councillors have considered the application and object to this planning application for the following reasons: -

1. The site of the application is outside of the area covered by the current UDP settlement policy, and so is still classified as open countryside. The existing policies state that no development should occur and the exception rules within the UDP do not apply to this site.
2. The site is classified as grade 2 agricultural land. In the NPPF Grade 2 agricultural land is classified along with Grade 1 agricultural land as a scarce resource. Before development of Grade 1 and 2 land should occur other sites within the county of a lower Grade should be considered first for any future development in order to protect this scarce resource for future generations.
3. Together, Grade 1 and 2 agricultural land make up 21% of the agricultural area in England. It is an extremely scarce resource across England so we therefore should conserve it in Herefordshire.
4. In addition, Herefordshire Council's SHLAA 2011 identified this site as "Greenfield site", so in accordance with NPPF rules priority should be given to developing Brownfield sites before Greenfield sites are considered for development. Breinton Parish Council understands that there are a number of Brownfield sites within the City which are available for redevelopment, which should be given priority over this site for housing development.
5. Although the Herefordshire Council's SHLAA Review 2011 report does not identify flooding as an issue in the area, there is a history of flooding in this area. The residents of Breinton Lee and Kings Acre Road have compiled much photographic evidence to show that flooding is a real issue, not only to the residents, but also on the site of the proposed development and over many years. It is understood that the residents will submit photographic evidence to substantiate this fact.
6. The fields of this proposed development are permanently in flood, and with heavy rain, properties in Breinton Lee and Kings Acre Road become flooded. The proposed development will be 45% impermeable so the flooding problem will be exacerbated. Even when an orchard was in existence on this site until recently, there is evidence of the orchard being under water, despite the uptake effect these trees would have had on the surrounding water table. Without these trees the situation regarding flooding has deteriorated further.
7. The flooding is not just a result of the last 12 months heavy rain. It is a long standing problem (the photographs showing a decade-long issue are already cited) but previous approvals / developments like Kings Court, and Breinton Lee itself make things worse. Enough is enough without adequate infrastructure and the current application is one proposed development too far.
8. The Herefordshire Council's SHLAA Review 2011 records that Dwr Cymru Welsh Water states that the area suffers from low water pressure and additional development would exacerbate the poor service levels.
9. As you know, over recent months the current owners have had a policy of clearing vegetation from the proposed site, to make it look more deserted. Historically the site was an orchard and a horticultural site. Previously there was a wide range of habitat which was abundant in wildlife. Much of this resource has been lost through the destruction of the historic orchard. Herefordshire Council were notified when the landowner commenced removal of the orchard. No mention of the destruction of this orchard is included in the planning application as the developer undertook this prior to the application date. A badger sett still remains on the site and this should be protected. Breinton Parish Council does not feel that the proposal for environmental habitats in very small private gardens can be implemented and enforced.

---

Further information on the subject of this report is available from Ms K Gibbons on 01432 261781

10. The Herefordshire Council's SHLAA Review 2011 identifies that already parts of the public sewerage infrastructure in the area suffers from hydraulic overloading. This is further evidenced by existing residents suffering with problems in emptying baths and flushing toilets during periods of heavy rainfall. No regulatory improvements by Dwr Cymru Welsh Water are included in the current 5 year Capital Investment programme. The addition of 18 dwellings will exacerbate overloading on the local sewerage infrastructure causing public health issues not just for new residents but the surrounding existing residents connecting to the sewerage system in the area should this development go ahead.
11. In addition to point 6 above, from the Herefordshire Council's SHLAA Review 2011 Dwr Cymru Welsh Water indicate that the site is further constrained by the lack of available headroom on sewage treatment generally in Hereford unless capital investment is planned to accommodate future development within the treatment catchment area.
12. Whilst the Highways Department has not yet submitted a report, there is a history of repeated minor accidents occurring at this point on Kings Acre Road, in particular due to parking in the lay-by, often by large vehicles such as lorries, which severely limits the visibility on this 40mph road. In addition, the fact it is opposite the entrance to a busy retail/ café establishment, further exacerbates traffic movements directly at the junction of traffic from this development onto the A438.
13. The design allows for the parking of 36 vehicles on this site. Breinton Parish Council does not feel that this proposal, whilst outline planning permission, accords with the HPPF requirement that any development should be "sustainable". The application does not identify safe cycle or pedestrian movements within the development and the issues around water supply; flooding and sewerage further indicate that this development fails to be considered "sustainable". The introduction of SUDs to deal with storm water is not suitable for this location, as there is no area within the development where the soakaway system can operate.
14. Should the planning officer or planning committee of Herefordshire Council be minded to permit this application, Breinton Parish Council reserves the right to require that the following conditions be imposed on any developer of this site:-
  - a) It should be a condition of any development that the developers fund the necessary improvements in the drainage infrastructure for the area around Breinton Lee and Kings Acre Road.
  - b) It must be a condition for the developers of this site to fund the necessary improvements to the sewerage infrastructure to ensure that it is fit for purpose and accords with the requirements of Dwr Cymru Welsh Water.
  - c) It must be a condition for any developers to fund the necessary improvements to fresh water via off-site main laying from a point of adequacy on larger diameter/pressure water mains.
  - d) In the event of flooding arising from the development of this site, both of new and existing residences, within a distance of 0.5km minimum of Breinton Lee, Herefordshire Council by permitting development in an identified flood risk area, will ensure that they will provide either a separate affordable scheme of insurance equivalent to any that will exist to surrounding residents unaffected by flood risk, from the date of the commencement of this new development (i.e. in perpetuity) or will make good the loss due to flooding suffered by both new and existing residents)

- e) It must be a condition for any developer to provide a suitable area for recreation closer than the play area on Westfaling Street, which is nearly 2 miles, along a 40 mph road, with no safe cycle route.
- f) It must be a condition that the developer contributes to improving sustainable travel routes within the area to minimise vehicle movements and minimise the risks to vehicles at the junction with the A438.
- g) To provide for the loss of habitat and trees, the developer will provide suitable landscaping and green habitat as part of any future development.

### Comments on Amended Plans

Most of the original points and concerns raised in previous correspondence have not been adequately addressed in the additional and amended plans supplied by Foxley Tagg. Breinton Parish Council still objects to this planning application for the original reasons provided.

In particular, the Parish Council is of the opinion that the proposed development lacks sustainability, with regards to energy, flooding, drainage and poses a real threat of ecological damage. The parish council responds to the letter from Foxley Tagg and the additional information provided by them as follows:

### Land use

1. The Strategic Housing Land Availability Assessment (SHLAA) does consider the site as a suitable development site and central government is pressing for further housing development.
2. However, on closer inspection the evidence strongly suggests that the site is not suitable for further housing development. The proposed site is grade 2 agricultural land and is therefore a nationally scarce resource. Although the current owner has not chosen to farm this land, it has historically always been used for agriculture. It was previously a mature orchard used by Wyevale Nurseries, whereas the current owners use the plot for turning heavy agricultural machinery to access farmland beyond.
3. National Planning Policy Framework para 112 states “Local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality.” Lower Grade agricultural land in the county should be considered for development prior to development of a site such as this.
4. Greenfield sites should only be used for housing development once existing brown field sites have been developed. Indeed the brownfield site of the former Whitecross School on Baggallay Street is a prime example of available land for development and is a lot closer to the proposed play area on Westfaling Street than this site.

### Drainage

5. It is noted that para 8.12 of the report proposes to extend and re-profile the ditches along the south and west sides of the site (and 2 properties in Breinton Lee). However, as is evidenced by the experience of the residents in the properties along Breinton Lee (and evidenced by the report and photographs from Turnwater Ltd) the water run-off from the land to the south of the site does contain substantial amounts of sediment. Water regularly flows over the top of the existing drainage ditch. This leads to the ditches



becoming silted up very quickly during periods of rain, so these ditches, even if re-dug, will require regular maintenance.

6. It is this silt that forms the debris which settles in the existing drainage system and causes this system to block, as seen in the Turnwater report. This deposition of silt will continue to be an issue with the drainage system. Contrary to the comments at 4.4 of the R J Fillingham report, the slope does provide for flash overland flood run-off following heavy rain.
7. Surface water regularly collects along the northern edge of the fields - on the boundary with Breinton Lee and the proposed development site.
8. The reports make no mention of who will have responsibility for the maintenance of these ditches. Indeed, following the original ditch being dug out in 2000, the landowner subsequently requested that it be filled back in again. The ditches are not on the applicants land or that of the existing residents of Breinton Lee. What guarantees will there be to ensure these ditches will be adequately maintained and remain effective in the future?
9. Para 2.6 of The Planning Statement Addendum goes on to say that these “may not be hugely effective in exceptionally wet periods given the clayey nature of the sub-strata”. As the problem is the substrata of the land which is a fluvial plane, this situation is to continue, even with the proposed ditching by the applicants.
10. The Surface water drainage report (R J Fillingham) describes a general lack of maintenance and repair of the ditches, pipework, gullies and culvert throughout the drainage system to the receiving ditch that on the opposite side of KAR between nos. 304 and 306a KAR. The Turnwater (Drainage) Report refers to a sizeable difference in pipe levels beneath the property of 343 KAR, and as the 'upstream' pipe is below the 'downstream' pipe, there is always a level of water that cannot drain away. The report concludes that the issue of pipe levels must be addressed for it to function properly. The applicants are not in any position to sanction redress of this situation.
11. The situation is not helped by the fact that Breinton Lee and the proposed development site are at a lower level than the than the Kings Acre Road, where the surface water is meant to drain away.
12. At para 2.8 of the same report, it is accepted that improvement of the drainage system relies on improvements in other areas not owned by the applicant. In which case the applicants cannot rely upon these third parties to carry out these further works, so cannot guarantee the effectiveness of the drainage system to prevent flooding of the proposed development site or properties in Breinton Lee. Any development will mean that the existing system will have to contend with a much greater volume of surface water passing through the system. Failure to ensure the upkeep of the drainage system will lead to flood damage on the proposed development site as well as the existing properties in Breinton Lee.
13. As there is a sizeable amount of impermeable ground arising from the proposed development, there is less ground for surface water to soak away, which will increase the pressure on the drainage system. Amey already attend to regular repairs to the drainage system in this area of Kings Acre Road. Over the last 18 months, Amey have responded to the following incidents: - blocked culverts parallel to Breinton Lee; blocked gullies along Kings Acre Road (4 instances); blocked gullies outside 333 Kings Acre road and the Breinton Lee turning; residents digging trench to prevent flooding off the farmer's field. This is indicative of the difficulties in trying to maintain an adequate drainage system for

the existing houses. The difficulties will be made much worse by further housing development in the area.

14. I E Developments (builders of the original properties in Breinton Lee) were given the option to build further properties, but declined to do so because of the flooding and drainage issues that beset the local area. The evidence suggests they were right in not attempting to develop the site further.

#### Balancing ponds

15. It is noted that one of the proposed balancing ponds is higher than the surrounding area, so this will not collect surface water from the lower ground surrounding it.
16. The balancing ponds are of limited capacity, so in any prolonged periods of rain, the ponds will be full before any further surface water will have drained into them.
17. It is likely that the balancing ponds will become filled with debris and sediment so will require regular maintenance and dredging. The act of dredging will prevent any ecological benefit accruing from the existence of these water features.
18. The ponds will also provide a health and safety hazard to residents living in the area, and in particular to children. In many residential areas such ponds have been prohibited due to the hazards they pose.

#### Access and road layout

19. The lay-by on Kings Acre Road, south of the junction to Breinton Lee is frequently used as a parking area for local residents and large lorries. To improve the visibility for traffic emerging from Breinton Lee, it will be necessary to remove the lay-by completely.
20. It is noted there are currently accesses into 2 adjoining properties from the lay-by. It will be necessary to discuss any proposed changes with the owners of those properties that adjoin the lay-by before any alterations are made.
21. There are also visibility issues when people pull up opposite the post box to the north of the junction. With additional traffic emerging from Breinton Lee, there is more likelihood of collisions.
22. The drawings and reports regarding the access from Breinton Lee into the proposed development site make no mention of the gated entrance into Lambourne Gardens. As the proposed entrance is directly opposite the gates into Lambourne Gardens there are potential safety issues around this area, such as with the delays whilst vehicles enter and depart from those properties. Access for the emergency services and utility vehicles may be impeded by the layout of the access.

#### Biodiversity

23. At para 4.5, the report states: "We would not agree that the majority of the vegetation has been removed." This is demonstrably untrue - refer to the photos taken from Google Earth in 2000 and subsequent years. As previously stated at 2 above this was a mature fruit orchard planted in the 1930s as part of the nurseries and it was only removed by the applicant in the last couple of years prior to this application.
24. The application proposes that a fruit tree is planted in each of the gardens. Yet at para 4.9, it acknowledges that securing the longevity of habitat creation within residential

gardens, cannot be guaranteed. This demonstrates a complete lack of respect and determination to take seriously the issue of biodiversity.

25. There is an extensive family of badgers in the area, which are a protected species. It is difficult to see how these will be protected with the current proposals to develop this site.
26. The response in the Planning Statement Addendum to the ecologists comments on clearance of vegetation on the site is to say that “the majority of the trees... were either not native (e.g. leylandii) or not mature”. This statement is clearly untrue - please refer to the photographs taken from Google Earth (in 2000 and subsequent years) submitted in the previous submission to the Planning officer. These photos clearly show extensive and mature trees growing on the proposed site.
27. The existing badger sett appears to be very close to the location of one of the proposed balancing ponds. What assurances are given to ensure the safety of the badgers and the sett?

### Sustainability

28. The proposals do specify certain amounts for off-site public amenities, but it is noted there are no amounts destined for sustainable transport - specifically to help support the bus service and also a contribution towards the proposed cycleway along Kings Acre Road. This would show a commitment towards sustainable transport and help alleviate potential traffic problems resulting from any development.
29. As the report states the use of SUDS is not appropriate due to the drainage problems on this site. The biodiversity and ecology of this site has been seriously devastated prior to this planning application and nothing in the plan indicates any commitment by the applicant to create a “sustainable” development

### Conclusion

30. Alternative brownfield sites include the nearby site of the former Whitecross School on Baggallay Street as an alternative to this development and which has suffered significantly less flooding than the area surrounding Breinton Lee.
31. The evidence describes that the properties in Breinton Lee are at a lower level relative to the highway on Kings Acre Road, which is supposedly 'downstream' in the surface water drainage system. Any breakdown in the drainage system following works carried out will inevitably lead to flooding of Breinton Lee and any properties on the proposed development site.
32. The report concludes that “the implementation of the above measures should ensure the existing flooding problems are alleviated as far as can be reasonably expected”. This assumes that everything goes according to plan, yet the developers do not appear to have full confidence in what they are proposing. It does not appear there is any capacity in the system to accommodate anything other than regular conditions. Nothing to cater for periods of heavy rain, or blockages of the system (of which there are many – see the evidence from Amey), which will lead to flooding of properties, not only of properties in Breinton Lee and Kings Acre Road, but also on the proposed development site itself.
33. Should the application be approved it will be necessary to establish a Management Company to oversee and fund maintenance of the balancing ponds, as well as the ditches and drainage system throughout. However, it will be dependent on third parties carrying out certain works in respect of the drainage system. It is unlikely that such a management system will be effective to maintain the drainage system.

34. The reports provided to support the application make reference to other parties having the responsibility to ensure the drainage system is kept in good repair, one of whom is I E Developments, being the builders of the properties in Breinton Lee. I E Developments were given the option to build further properties, but declined to do so because of the flooding and drainage issues that beset the local area. The evidence suggests they were right in not attempting to develop the site further. Perhaps the applicants and Foxley Tagg may wish to reconsider their proposals.

For all the above reasons, Breinton Parish Council continues to object to this planning application.

If Herefordshire Council are minded to approve this application the points made in our earlier objection remain regarding S106 funds and the requirement for the imposition of conditions on the application.

5.2 Letters of representation and objection have been received from:

- Mr and Mrs R Underhill, Baggins Holt, 1 Breinton Lee
- NJ Thompson, Ash House, 2 Breinton Lee
- K and JE Farnes, 3 Breinton Lee
- Sheila Oakland, 5 Breinton Lee
- David Day, Cranston Lodge, 1A Breinton Lee
- Mrs Lee, 1 Cranston Mews
- C Whiteaway and Stephen Donnelly, 2 Cranston Mews, Breinton Lee
- L Hiatt, 4 Cranston Mews, Breinton Lee
- Melanie Edwards, 2 Lambourne Gardens, Breinton Lee
- Mrs J Mclellan, Mr Raymond, 1 Lambourne gardens, Breinton Lee
- Melanie Edwards, 2 Lambourne Gardens, Breinton Lee
- Mrs Anderson, 3 Lambourne Gardens, Breinton Lee
- Mrs G Bezant, 4 Lambourne Gardens, Breinton Lee
- Mrs and Mrs A Richards, 5 Lambourne Gardens, Breinton Lee
- Mrs E Beddoes, 3651 Kings Acre Road
- Mr Evans, I E Developments, 335 Kings Acre Road
- Philip Sharpe, 345 Kings Acre Road
- Robert Brookes, 347 Kings Acre Road
- Dudley Jackson, 349 Kings Acre Road
- K Calvert, 355 Kings Acre Road
- Prof R Wise, Springfield House, Breinton
- P Ellis, Kings Acre

The issues raised in these letters are as follows:

- The site lies outside of a defined settlement and in an area considered to be rural / open countryside / greenbelt.
- The application is premature as the Core Strategy is in its infancy.
- There are other brownfield sites in Hereford that can accommodate the housing.
- The site is Grade 1 or 2 agricultural land that should be protected
- Density of development is too great for the area
- Will be highly visible from public footpath to the west (Wyevale Wood)
- Flooding within the site from surface water drainage and run off and 'pooling'. Significant amount of photographic evidence has also been provided by objectors.
- Drainage ditches and culverts are insufficient / failing
- Flooding of surrounding roads, pavements and properties – potential increase of this from development.
- Existing drainage problems in the area. Blockages, capacity issues.

---

Further information on the subject of this report is available from Ms K Gibbons on 01432 261781

- Concern about ongoing management of the drainage system / pools and cost of this if through a management company.
- Balancing ponds may be dangerous for children.
- No evidence supplied that the culvert (when cleared) can accommodate the additional flows. Considerable doubt that the drainage system as proposed will
- Site is not sustainable – need to use a vehicle
- Highway safety issues – access onto Kings Acre Road, restricted visibility due to parking in layby.
- Conflict with traffic pulling around, and into Breinton Lee, to avoid traffic turning right into Wyevale.
- Additional traffic movements would be to the detriment of highway safety
- The removal of half the lay-by will not alter the problem of reduced visibility due to parked vehicles. The layby is, contrary to comments in the statements, frequently used.
- Vehicles waiting to access Lambourne Gardens will restrict access to the development.
- Loss of wildlife, trees and shrubs
- Impact upon Badgers sett.
- Concerns that the importance of the landscape and visual assessments are not robust enough and that enough weight has not been given to the sensitive area
- Concerns that the drainage engineer has not fully appreciated the situation / potential impact.

5.3 The consultation responses can be viewed on the Council's website by using the following link:-  
<http://news.herefordshire.gov.uk/housing/planning/searchplanningapplications.aspx>

Internet access is available at the Council's Customer Service Centres:-  
[www.herefordshire.gov.uk/government-citizens-and-rights/complaints-and-compliments/contact-details/?q=contact%20centre&type=suggestedpage](http://www.herefordshire.gov.uk/government-citizens-and-rights/complaints-and-compliments/contact-details/?q=contact%20centre&type=suggestedpage)

## 6. Officer's Appraisal

6.1 The proposed development of the site for 16 dwellings falls to be considered having regard of the following issues:

1. Principle of Development
2. Access and Highway Safety
3. Drainage Issues
4. Landscape impact, layout and amenity
5. Ecology
6. Affordable Housing
7. Open Space / Play Space
8. Section 106 Agreement

### Principle of Development

6.2 The application site is outside of the defined settlement boundary of Hereford City as defined by policy H1 of the UDP and thus Saved Policy H7 of the Herefordshire Unitary Development Plan (UDP) is relevant. This policy provides a clear presumption against development in open countryside, unless the proposal would meet with one of the identified exceptions. This is not the case here as such the proposal is contrary to this policy.

6.3 Notwithstanding this, at the heart of the NPPF is a general presumption in favour of sustainable development and applications for housing should be considered in this context. The NPPF now requires that local planning authorities identify a rolling five year supply of

deliverable housing land to ensure choice and competition in the market and requires an additional buffer of 5% (increased to 20% if a planning authority has persistently under delivered housing land). On the basis of the evidence available to date, it is considered the requirement for a 5% buffer is applicable to Herefordshire. The Council's published Annual Monitoring Report (AMR) which monitors housing land availability identified a shortfall of 216 units which equates to a 4.6 year supply, increased to 356 units when a 5% buffer is added.

- 6.4 Paragraph 49 of the NPPF stipulates that relevant policies concerning the supply of housing land should not be regarded as up to date if a five year of housing land cannot be demonstrated. In view of this, there is a requirement to release further land for housing that is deliverable and sustainable within the next five years. There remains a requirement for the development to accord with other relevant UDP policies and NPPF guidance but in terms of the principle, if the development is acceptable in all other respects, the conflict with UDP policies H1 and H7 are not reasons for refusal of the application that could be sustained on appeal. This position has recently been reinforced by the Communities Secretary associated with a planning appeal elsewhere in the county where the Planning Inspector concluded that the relevant UDP housing delivery policies are no longer up to date and therefore not consistent with the NPPF.
- 6.5 Whilst each application must be considered on its merits, Planning Inspectors and the Communities Secretary are increasingly placing significant weight not only the shortfall but the scale of the deficit. In this regard, the published AMR is now somewhat dated being based on figures up to March 2011 and furthermore, is based on UDP and adopted Regional Spatial Strategy housing delivery requirements, both of which have now been determined by the government to be out of date and not consistent with the NPPF in housing land requirement terms. Analysis for 2011/2012 period has recently been completed and data collection for the 2012/2013 period is underway. Utilising more up to date evidence on housing need to establish the base line position, the latest figures are indicating that the shortfall is in fact considerably more than the published AMR and is likely to be in excess of a 1000 dwellings. It is considered that based on recent appeal decisions across the country, the scale of the shortfall is now also a material planning consideration relevant to this application.
- 6.6 An interim strategy to deal with sites of this nature was also agreed by the Council's Cabinet on 12 July 2012. That being to focus on sites that have been identified as having low or minor constraints in the Strategic Housing Land Availability Assessment on the edge of the city, market towns and main villages. The exception to this being where it can be demonstrated that the development and location is sustainable and appropriate for additional housing and the environmental and other impacts of the development are acceptable. The site (identified under reference number HLAA/050/001) is identified within the SHLAA as being considered to be suitable for housing with low or minor constraints for 16 units.
- 6.7 The site must also be considered in the context of 'sustainable development'. The site has good access to public transport travelling along the A438, with good pedestrian links from the site to access this. There are newly constructed shared footway / cycleway to the school and the new cycleway along Kings Acre Road towards Hereford City is programmed in as a priority project for Herefordshire Council. As such, the site is considered to be located in a sustainable location. Sustainable development would also apply to the design, layout and detail of the development, all of which will be considered as part of the reserved matters application. In conclusion, whilst the application would be contrary to the Saved housing delivery policies of the UDP, the absence of a 5-year supply of housing land means there are no grounds to recommend an application for refusal on a housing land supply policy issue.

#### Access and Highway Safety

- 6.8 The application submission relates to access only, with all other matter reserved. The indicative plans detail the access to the site from Breinton Lee in the north-west corner of the

site. From this a new road will be created for vehicles. The Transportation Manager is satisfied with the position and visibility of the proposed point of access and has raised no objection to this.

- 6.9 Residents of the gated Lambourne Gardens, have raised concerns about potential conflict of movement, where visitors to the 5 dwellings within Lambourne Gardens, have to wait on the road to be 'buzzed in' by the householder. This has been considered, and it is noted that there is a pull in before the gates large enough for a vehicle of average size to pull off the highway and not cause an obstruction. It is not considered that this would be sufficient to represent a highway safety objection. As such the proposed access to the site would comply with the requirements of policy DR3 of the Unitary Development Plan.
- 6.10 Local residents and the Parish Council also raised concerns about the increase in traffic movements from Breinton Lee onto the A438 (Kings Acre Road) due to the restricted visibility caused by cars parking in the lay-by adjacent to the access and the conflict of traffic movements with those waiting to turn into Wyevale. In response to this the applicants have amended the submission, and following liaison with the Transportation Manager have established that improvements can be achieved through the closure of half of the lay-by. The lay-by lies within highway land and details of how this closure would be undertaken would require detailed engineering drawings, a matter that can be dealt with by way of an appropriate condition. It is considered that this arrangement will also benefit existing users of the Breinton Lee. The Transportation Manager has also considered the concerns raised by local residents about the vehicles turning into Wyevale and advises that there is no personal injury accident record in at Breinton Lee junction in the last 5 years. For completeness, there are two personal injury accidents recorded within 100 metres either side of the Breinton Lee junction. One slight injury accident was recorded in May 2012 involving a stationary vehicle waiting to turn right into Wyevale being struck by a vehicle from behind. One slight injury accident was recorded in October 2012 involving a stationary vehicle waiting to turn right into No 306, (just to the east of Breinton Lee on the north side of Kings Acre Road), which turned into the path of an oncoming vehicle. These were not associated with vehicles using the Breinton Lee turning. The removal of half of the lay-by will also improve forward visibility as well. The existing access, with improvements to visibility as described, would ensure that this junction is more than capable of dealing with the predicted increase in traffic movements. The changes will not just benefit residents of the new development but would also have wider benefits for highway users. Accordingly it is considered that the proposal would comply with the requirements of policies DR3 and T8 of the UDP

#### Drainage

- 6.11 One of the key issues that has been raised during the appraisal and consideration of this application relates to surface water capacity issues. The site does not lie within a Flood Zone, but the local residents and parish council provided evidence that the site, adjoining properties, and the footways and land adjacent Kings Acre Road are all affected by water accumulations from surface water run-off.
- 6.12 Following the receipt of these and the deferral of this application, the applicants have further explored the issues surrounding surface water drainage and flooding. This was to seek to address the continued concerns from local residents, to ensure that their proposals would not exacerbate existing problems and that the application site itself would not flood. A detailed drainage report has been undertaken by Turnwater Ltd that assessed the current situation and this was submitted along with an updated Foul and Surface Water Drainage Strategy that looked at not just the proposals for the site, but the existing problems experienced by residents of Breinton Lee and Kings Acre Road. Members will now also be aware of the additional measures that are being proposed by reference to the Background section above.

- 6.13 It has been established that the primary cause of the flooding to the south of Kings Acre Road has been the ineffective highway drainage, with road gullies being significantly blocked with debris. With exceptionally high levels of rainfall, water runs off the highway, bypassing the gullies and into their driveways and garden. This is exacerbated by the fact that the receiving drainage system has also been found to be totally blocked, with its outfall barely visible.
- 6.14 Following the survey work, the jetting out of the culvert running between Breinton Lee, 343 King's Acre Road and the receiving highway surface water drainage system in King's Acre Road was undertaken by the applicants to help address the current issue. The report identified deficiencies with the culvert running along the boundary of 343 King's Acre Road. The pipework within King's Acre Road is the responsibility of the Highway Authority.
- 6.15 Following the concerns raised at Planning Committee the drainage strategy has been amended.
- All surface water run-off from the proposed development will discharge to a single on site balancing pond (Pond B) to the south of the site. The residual discharge from this pond will outfall to the drainage ditch running along the southern boundary. The residual discharge will be restricted to a maximum of 5 l/s, up to the 1 in 100 year climate change event, with the balance of flows being accommodated within the pond. The maximum overall surface water discharge from the development has therefore reduced from 10 l/s to 5 l/s.
  - The existing drainage ditches running along the western and southern boundaries of the site will be re-profiled and extended to provide greater protection from overland flooding to the existing Breinton Lee properties and the new development. The downstream receiving 225mm diameter culvert and pipework has already been cleaned out.
  - A further pond, Pond A (Greenfield pond) will be provided on the site. It will be directly linked to the western ditch and will provide attenuation for excess Greenfield flows from the land to the south, up to the 1 in 100 year climate change event, that may back up from the existing 225mm diameter culvert. As the site is included within the Greenfield catchment, the discharge from Pond B, and therefore the proposed development, will potentially be attenuated still further.
  - It is no longer proposed to replace the existing 225mm diameter culvert with a 375mm diameter pipe in Breinton Lee.
  - It should be noted that the existing outfall arrangement to the ditch between Nos. 304 and 306a Kings Acre Road will remain regardless of whether the proposed development proceeds.
- 6.16 Consultation on this revised strategy has been undertaken and any additional comments will be provided to Planning Committee in the updates. The revised proposals, that would not only address on site drainage, but have sought to address existing problems on the adjoining sites, are considered to comply with the requirements of policies DR4 and DR7 of the Unitary Development Plan and recommendations are made in respect of conditions and use of a Section 106 agreement for on-going maintenance.
- 6.17 It is proposed to connect the foul drainage from the development to the public foul sewer located within Breinton Lee via a new gravity connection. Welsh Water has confirmed that there is sufficient capacity within the public foul sewer network to serve the foul flows from the development. Conditions regarding this matter are recommended.

#### Landscape Impact, Layout and amenity



- 6.18 The application site has been assessed as part of the Council's Urban Fringe Sensitivity Analysis and is considered to have medium-low sensitivity and is therefore suitable for housing. The site is relatively contained and clearly sits in the context of the other dwellings on Breinton Lee (the majority of which have been built in the last 15 years) and Kings Acre Road. The application submission reserves all other matters but an indicative layout has been submitted and officers are satisfied that 16 dwellings, with carefully considered landscaping and design, can be accommodated without detriment to the wider landscape or to the amenity of neighbouring properties. The reduction in numbers and comments within the updated design and access statement also addresses this. These matters will be considered as part of any reserved matter application, including compliance with policies DR1 and H13 of the UDP, as well as guidance contained within the National Planning Policy Framework.
- 6.19 Unusually, for this type of development, it is noted that the applicants intend that some of the plots will be made available for self build projects.

#### Ecology

- 6.20 The Council's Ecologist has considered the reports submitted with the application and has recommended conditions. It is noted that there is an active badger sett to the western boundary of the site, and this is identified within the report and within representations. The conditions recommended ensure a scheme of habitat protection along with enhancement and mitigation measures. This would therefore comply with the requirements of policies NC1, NC6, NC7, NC8 and NC9 of the Herefordshire Unitary Development Plan.

#### Affordable Housing

- 6.21 The application submission, in line with policy H9 of the UDP, includes 35% affordable housing provision. In this instance, it has been agreed that this will be provided as 5 Low Cost Market dwellings that would be sold at a reduced cost (at the price stated in the Technical Data at the time of the Reserved Matters application(s)). Further sales would also reflect the Low Cost discount and this would be secured, in perpetuity, through the Section 106 agreement. All properties would be built to DQS, Lifetime Homes and a minimum level of Code 3 and allocated to those with a local connection to Breinton parish, cascading to adjoining parishes in the established manner.

#### Open Space / Play Space provision

- 6.22 Policy H19 of the UDP requires the provision of play space for children on sites of 10 – 30 dwellings. It is agreed in principle that the layout can provide opportunities for residents and children to play informally. However, the final design and landscaping plans will need to make it clear which areas could be used and managed as such and are fit for purpose. This is particularly relevant to the pond area to be used as part of the infiltration scheme (SUDS) in respect of health, safety and accessibility. For example, consideration will need to be given to the design of the balancing pond as deep standing water can present a danger if publically accessible and future adoption as POS will be dependent on its final design. This will be considered further as part of any reserved matters application.
- 6.23 The on-site provision doesn't include a formal play area and this is supported since they offer little in play value and are costly to maintain. Therefore, in accordance with UDP policy H19 and the requirements for schemes of 10 – 30 dwellings, an off-site contribution towards existing facilities is considered appropriate. In this instance, existing play provision in the area is outside acceptable walking thresholds but given the potential to develop informal POS on the development site especially for younger children, the applicant has agreed to this approach. The contributions will be spent in consultation with the local community on priorities in accordance with the Play Facilities Strategy and Action Plans, and it is agreed that this will

potentially be at Westfaling Street which is the nearest facility and a neighbourhood play facility.

### Section 106 Matters

- 6.24 The Heads of Terms appended to this report detail the proposed requirements of the Section 106 Agreement. This includes contributions for the enhancement of local education, sustainable transport and sports infrastructure as well as contributions for libraries, waste management and public open space. The Section 106 Agreement will also control the delivery of the affordable units and ensure they remain affordable in perpetuity, ensure drainage maintenance and management and the maintenance / provision of any open space within the site.
- 6.25 The Section 106 Heads of Terms is based on the requirements of the adopted Supplementary Planning Document on Planning Obligations whilst also ensuring the need and scale of the contributions and uses for the money meet the relevant legislative tests set out in the Community Infrastructure Levy Regulations. It is considered that the Section 106 Agreement as drafted accords with the requirements of UDP policy DR5.

### Other issues

- 6.26 Both Parish Council and local representatives note that the land is Grade II agricultural land. The land has not been used for agricultural purposes for a significant length of time. Policy E15 of the UDP does seek to protect the best and most versatile land from development unless there is a lack of suitable development opportunities within the existing urban areas. I would refer to the start of the officer appraisal that identifies the Council's current housing land supply deficit and given that this proposal would involve the loss of a very small parcel of land that is not in agricultural use at present (or recently) such that greater weight should be attached to the former. Officers do not consider that the loss of agricultural could be defended in this specific case.

### Conclusion

- 6.27 The proposal fails to comply, in principle, with Policy H7 of the Herefordshire Unitary Development Plan, however weight must be given to the National Planning Policy Framework, which clearly identifies that where sites are considered to be sustainably located and where they comply with other relevant policies, there should be a presumption in favour of sustainable development.
- 6.28 The development of the site has been carefully considered having regard to the access, highway safety and junction capacity and it is concluded that this would accord with the requirements of policies DR3 and T8 of the Unitary Development Plan. The drainage of the site and the impact on the existing drainage systems has also been thoroughly considered having regard to the technical reports and recommendations provided that relate both to the existing problems in the locality and site constraints. Subject to details that can be agreed through appropriate conditions and legal agreement, the proposal would accord with the requirements of policies DR4 and DR7 of the Unitary Development Plan.
- 6.29 The site is not particularly sensitive in terms of landscape impact, and sits comfortably within the context and built form of the surrounding dwellings and commercial buildings. Therefore the proposal would comply with the requirements of policy LA2 of the Unitary Development Plan, subject to detailed landscape plans, required by policy LA6, as part of the reserved matters application.
- 6.30 Matters relating to design, scale, layout and impact on amenities of adjoining properties will be considered as part of subsequent reserved matters application and appropriate conditions but

officers are satisfied that this will be possible having regard to policies DR1, DR2, H13, LA6, NC1, NC6, NC7, NC8 and NC9 of the Unitary Development Plan.

## **RECOMMENDATION**

That subject to there being no further objections raising additional material planning considerations by the end of the consultation period and completion of a Section 106 Agreement in accordance with the attached Heads of Terms, the officers named in the scheme of delegation be authorised to approve the application subject to the following conditions and any further conditions considered necessary by officers:

1. **A02 Time limit for submission of reserved matters (outline permission)**
2. **A03 Time limit for commencement (outline permission)**
3. **A04 Approval of reserved matters**
4. **I51 Details of slab levels**
5. **G11 Landscaping scheme - implementation**
6. **G04 Protection of trees/hedgerows that are to be retained**
7. **The recommendations set out in the ecologist's report dated 19 June 2012 should be followed. Prior to commencement of the development, a full working method statement should be submitted to and be approved in writing by the local planning authority, and the work shall be implemented as approved. Prior to commencement of the development, a habitat protection and enhancement scheme should be submitted to and approved in writing by the local planning authority. This should include provision for the long-term management of the site and the work shall be implemented as approved.**

**Reason: To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010 and Policies NC1, NC6 and NC7 of the Herefordshire Unitary Development Plan. To comply with Policies NC8 and NC9 of the Herefordshire Unitary Development plan in relation to Nature Conservation and Biodiversity and to meet the requirements of the National Planning Policy Framework and the NERC Act 2006.**

8. **G15 Landscape maintenance arrangements**
9. **F14 Removal of permitted development rights**
10. **L01 Foul/surface water drainage**
11. **L02 No surface water to connect to public system**
12. **L03 No drainage run-off to public system**
13. **M01 Surface water drainage works to be agreed**
14. **H09 Driveway gradient**
15. **H11 Parking - estate development (more than one house)**
16. **H17 Junction improvement/off site works**

---

Further information on the subject of this report is available from Ms K Gibbons on 01432 261781

- 17. H18 On site roads - submission of details
- 18. H19 On site roads - phasing
- 19. H21 Wheel washing
- 20. H27 Parking for site operatives
- 21. I16 Restriction of hours during construction

**Informatives:**

- 1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations. Negotiations in respect of matters of concern with the application (as originally submitted) have resulted in amendments to the proposal. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
- 2. HN10 No drainage to discharge to highway
- 3. HN08 Section 38 Agreement & Drainage details
- 4. HN28 Highways Design Guide and Specification
- 5. HN05 Works within the highway

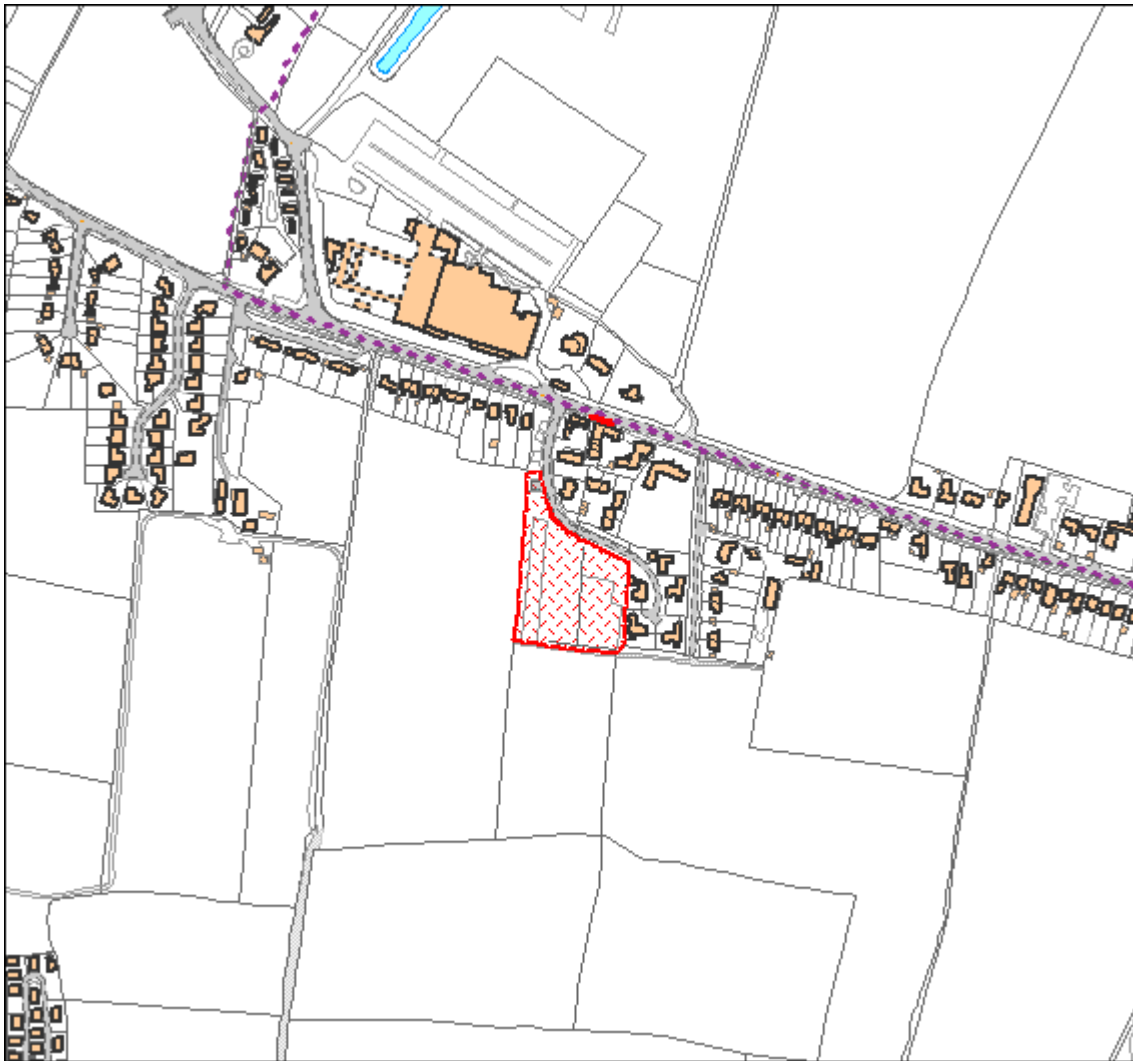
Decision: .....

Notes: .....

.....

**Background Papers**

Internal departmental consultation replies.



This copy has been produced specifically for Planning purposes. No further copies may be made.

**APPLICATION NO:** S/123592/O

**SITE ADDRESS :** LAND OFF BREINTON LEE, KINGS ACRE ROAD, HEREFORD

Based upon the Ordnance Survey mapping with the permission of the controller of Her Majesty's Stationery Office, © Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Herefordshire Council. Licence No: 100024168/2005

Further information on the subject of this report is available from Ms K Gibbons on 01432 261781

**HEADS OF TERMS**  
**PROPOSED PLANNING OBLIGATION AGREEMENT**

Section 106 Town and Country Planning Act 1990

**PLANNING APPLICATION: 123592/O**

**PROPOSAL: PRE-APPLICATION ADVICE FOR RESIDENTIAL DEVELOPMENT.**

**SITE: LAND OFF BREINTON LEE, KINGS ACRE ROAD, HEREFORD**

1. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of:

£4,900 (index linked) for a 2/3 bedroom open market unit  
£8,955 (index linked) for a 4+ bedroom open market unit

The contributions will provide for enhanced educational infrastructure, youth service infrastructure, early years childcare insufficiency solutions and the Special Education Needs Schools. The sum shall be paid on or before first occupation of the 1st open market dwellinghouse (unless otherwise agreed with the LPA), and may be pooled with other contributions

2. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of:

£ 1,720.00 (index linked) for a 2 bedroom open market unit  
£ 2,580.00 (index linked) for a 3 bedroom open market unit  
£ 3,440.00 (index linked) for a 4+ bedroom open market unit

The contributions will provide for sustainable transport infrastructure to serve the development, which sum shall be paid on or before occupation of the 1st open market dwellinghouse (unless otherwise agreed with the LPA) and may be pooled with other contributions if appropriate.

The monies shall be used by Herefordshire Council at its option for any or all of the following purposes:-

- Improvements to pedestrian/cycling facilities and links (including cycle route along Kings Acre Road)
- Safer Routes for Schools
- Improvements to public transport facilities

3. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of:

£ 965.00 (index linked) for a 2 bedroom open market unit  
£ 1640.00 (index linked) for a 3 bedroom open market unit  
£ 2219.00 (index linked) for a 4 / 4+ bedroom open market unit

To be used as an off-site contribution towards Westfaling Street.

The sums shall be paid on or before the occupation of the 1st open market dwelling (unless otherwise agreed with the LPA). The monies may be pooled with other contributions if appropriate

OR – an on-site LAP alongside the informal play opportunities (expect a play area to the value of approx. £10,000 and approx. 0.02 ha (200 sq. m) in size.

---

Further information on the subject of this report is available from Ms K Gibbons on 01432 261781

4. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of:

- £ 408.00 (index linked) for a 1 bedroom open market unit
- £ 496.00 (index linked) for a 2 bedroom open market unit
- £ 672.00 (index linked) for a 3 bedroom open market unit
- £ 818.00 (index linked) for a 4 bedroom open market unit

(contribution based around the requirements of policy H19 and RST4 of the UDP and Sport England Sports Facilities Calculator). The money shall be used by Herefordshire Council to provide enhanced indoor sports facilities in Hereford City.

5. The developer covenants with Herefordshire Council to pay Herefordshire Council a 15 year commuted sum for the future maintenance of the on-site open space and play provision (to be agreed in line with 15 year maintenance schedule)

6. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of:

- £120.00 (index linked) for a 1 bedroom open market unit
- £146.00 (index linked) for a 2 bedroom open market unit
- £198.00 (index linked) for a 3 bedroom open market unit
- £241.00 (index linked) for a 4+ bedroom open market unit

The contributions will provide for enhanced Library facilities in Hereford. The sum shall be paid on or before the occupation of the 1st open market dwelling, and may be pooled with other contributions if appropriate.

7. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of £120 (index linked) per open market dwelling. The contribution will provide for waste reduction and recycling in Hereford. The sum shall be paid on or before occupation of the 1st open market dwelling (unless otherwise agreed by the LPA), and may be pooled with other contributions if appropriate.

8. The developer covenants with Herefordshire Council that the residential units shall be “Affordable Housing” which meets the criteria set out in policy H9 of the Herefordshire Unitary Development Plan or any statutory replacement of those criteria and that policy including the Supplementary Planning Document on Planning Obligations.

9. The Affordable Housing units shall be Low Cost Market.

10. All the affordable housing units shall be completed and made available for occupation prior to the occupation of no more than 50% of the general market housing or in accordance with a phasing programme to be agreed in writing with Herefordshire Council.

10.1 The Affordable Housing Units sold in agreement with a procedure agreed with the LPA and shall be retained as Low Cost Market in Perpetuity and shall be allocated. sold as a sole residence to a person or persons one of who has:-

- a local connection with the parishes of Breinton,
- cascading to Hereford City. In the event there being no person with a local connection to any of the above parishes any other person ordinarily resident within the administrative area of Herefordshire Council who is eligible under the allocation policies of the Registered Social Landlord if the Registered Social Landlord can demonstrate to the Council that after 28 working days of any of the Affordable Housing Units becoming available for letting the Registered Social Landlord having made all reasonable efforts through the use of Home Point have found no suitable candidate under sub-paragraph 10.1

11. For the purposes of sub-paragraph 11.3 of this schedule 'local connection' means having a connection to one of the parishes specified above because that person:
  - 11.1 is or in the past was normally resident there; or
  - 11.2 is employed there; or
  - 11.3 has a family association there; or
  - 11.4 a proven need to give support to or receive support from family members; or
  - 11.5 because of special circumstances
12. The developer covenants with Herefordshire Council to construct the Affordable Housing Units to the Homes and Communities Agency 'Design and Quality Standards 2007' (or to a subsequent design and quality standards of the Homes and Communities Agency as are current at the date of construction) and to Joseph Rowntree Foundation 'Lifetime Homes' standards. Independent certification shall be provided prior to the commencement of the development and following occupation of the last dwelling confirming compliance with the required standard.
13. The developer covenants with Herefordshire Council to construct the Affordable Housing Units to Code Level 3 of the 'Code for Sustainable Homes – Setting the Standard in Sustainability for New Homes' or equivalent standard of carbon emission reduction, energy and water efficiency as may be agreed in writing with the local planning authority. Independent certification shall be provided prior to the commencement of the development and following occupation of the last dwelling confirming compliance with the required standard.
14. In the event that Herefordshire Council does not for any reason use the sum specified in paragraphs 1, 2, 3, 4, 5, 6 and 7 above for the purposes specified in the agreement within 10 years of the date of this agreement, the Council shall repay to the developer the said sum or such part thereof, which has not been used by Herefordshire Council.
15. The sums referred to in paragraphs 1, 2, 3, 4, 5, 6 and 7 above shall be linked to an appropriate index or indices selected by the Council with the intention that such sums will be adjusted according to any percentage increase in prices occurring between the date of the Section 106 Agreement and the date the sums are paid to the Council.
16. The developer undertakes to re-profile and extend the ditches to the southern and western boundaries of the site in accordance with the detailed drainage strategy agreed by conditions of the planning permission. Works shall be undertaken and completed prior to the occupation of any unit of accommodation. A detailed future maintenance schedule shall also be provided.
17. The developer covenants with Herefordshire Council to pay a surcharge of 2% of the total sum detailed in this Heads of Terms, as a contribution towards the cost of monitoring and enforcing the Section 106 Agreement. The sum shall be paid on or before the commencement of the development.
18. The developer shall pay to the Council on or before the completion of the Agreement, the reasonable legal costs incurred by Herefordshire Council in connection with the preparation and completion of the Agreement.
19. The Children's Play Area (if provided) and amenity public open space area shall be provided on-site prior to the occupation of 50% of the open market dwellings. The Children's Play Area and public open space shall be maintained by the developer for a period of one year and then transferred to Herefordshire Council at a cost of £1 provided that the play area and open space are to an acceptable standard as agreed by Herefordshire Council. At the time of transfer the developer shall pay Herefordshire Council a 15 year maintenance sum in accordance with the Tariff for Calculation of Commuted Sums 2012 (or subsequently amended).

Kelly Gibbons, Principal Planning Officer, May 2013.

---

Further information on the subject of this report is available from Ms K Gibbons on 01432 261781





<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>17 JULY 2013</b>
<b>TITLE OF REPORT:</b>	<b>N123316/F - ERECTION OF POLYTUNNELS TO COVER CHERRY ORCHARD AND CONSTRUCTION OF A BALANCE POND AT LOWER HENGOED, HUNTINGTON, KINGTON, HR5 3QA</b>  <b>For: Mr RC Hammond, Lower Hengoed, Huntington, Kington, Herefordshire, HR5 3QA</b>
<b>WEBSITE LINK:</b>	<a href="http://news.herefordshire.gov.uk/housing/planning/58286.aspx?ID=123316&amp;NoSearch=True">http://news.herefordshire.gov.uk/housing/planning/58286.aspx?ID=123316&amp;NoSearch=True</a>

**Date Received: 23 November 2012**

**Ward: Castle**

**Grid Ref: 325576,252051**

**Expiry Date: 18 March 2013**

Local Member: Councillor J W Hope MBE

#### **1. Site Description and Proposal**

- 1.1 The site consists of four predominantly south facing fields that are located approximately 2km south of the hamlet known as Huntington and 7km south-west of Kington.
- 1.2 The fields are divided by the no-through unclassified 91023 public highway. The two fields to the north of the highway have been planted with cherry trees (planted during the winter season of 2012/2013). The two fields to the south of the dividing unclassified public highway are presently in use for corn growing and pasture land respectively. Alongside the southern boundary of the two latter mentioned fields is the River Arrow, this and its immediate area is a designated Special Wildlife Site (SWS).
- 1.3 There are scattered isolated dwellings within the surrounding area, the nearest two, (both outside of the applicant's control), are known as Arrow Cottage and Hall's Mill House from which a bed and breakfast business is run, as well as a separate holiday let unit of accommodation. Both of these properties are located to the south west of the site but neither of their residential curtilages adjoins the application site.
- 1.4 The site and the surrounding area, in accordance with the Council's Landscape Character Assessment, is classed as Herefordshire Hills sub-regional character area, with the area displaying many of the key characteristics such as rolling topography, ancient tree cover, and native hedgerows. In essence the area retains one of the oldest field patterns within Herefordshire.
- 1.5 Public footpath HT24 runs alongside the northern boundary of the site. Footpath HT22 crosses the eastern boundary. The site can also be viewed from several other footpaths and minor public highways within the surrounding area.

---

Further information on the subject of this report is available from Mr P Mullineux on 01432 261808

- 1.6 A Screening Opinion was carried out in accordance with the Environmental Impact Assessment, (EIA) Regulations 2011, which established that the development is not considered EIA development, and therefore that an Environmental Statement was not required.
- 1.7 The Council's Screening opinion acknowledged the location for the development as sensitive in landscape and ecological terms and therefore the applicant was advised that any formal application needed to be supported by an ecological and mitigation impact assessment, landscape and visual impact assessment and traffic management assessment. These were submitted in support of the application along with the design and access statement and a flood risk assessment. Additional information was later submitted in support of the application in relation to the landscape and visual impact assessment and the flood risk assessment and pond siting, as well as supporting information in support of the business case for the development.
- 1.8 The application proposes the erection of polytunnels to cover a sweet cherry orchard on four fields during the growing season from April until September. The total field area is approximately 17.22 hectares and the polytunnels would cover an area of approximately 11 hectares. These fields form part of the farm known as Lower Hengoed Farm which covers an extended area of some 126 hectares.
- 1.9 The application proposes the use 'Spanish type' polytunnels which are between 7.8 and 8.5 metres wide and between 3.4 and 6.4 metres high on metal legs, each with a 'Y' shaped attachment on top, to which curved metal hoops are connected in linked rows. The tunnels are proposed to be orientated in a south-west – north-east direction, their alignment depending on slope, drainage and wind direction.
- 1.10 The application is made by the farmer owner of Lower Hengoed, Mr. R. Hammond, and this in accordance with information submitted in support of the application is a joint venture with the fruit growers based in the Ledbury area, known as Haygrove Ltd.

## 2. Policies

### 2.1 The National Planning Policy Framework (NPPF)

The overarching theme of the NPPF is a presumption in favour of sustainable development. Paragraph 7 sets out the three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles:

- **an economic role** – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;
- **a social role** – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being; and
- **an environmental role** – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy.

Paragraph 17 sets out 12 core planning principles that should under-pin decision taking. Amongst these, the following are considered particularly relevant to the application proposal. Planning should:-

- *proactively drive and support sustainable economic development to deliver, amongst other things, thriving local places that the country needs and respond positively to opportunities for growth;*
- *take account of the different roles and character of different areas...recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it;*
- *contribute to conserving and enhancing the natural environment and reducing pollution.*

Chapter 1 requires that the planning system supports sustainable economic growth, with the planning system acting to encourage not impede economic growth.

Chapter 3 states that local plans should “support sustainable growth and expansion of all types of business and enterprise in rural areas...and promote the development and diversification of agricultural and other land-based rural businesses.”

Paragraph 187 confirms that decision takers at every level should ‘seek to approve applications for sustainable development’ where possible.

## 2.2 The Herefordshire Unitary Development Plan 2007 (HUDP).

S1	-	Sustainable Development
S2	-	Development Requirements
S4	-	Employment
S6	-	Transport
S7	-	Natural and Historic Heritage
S8	-	Recreation, Sport and Tourism
DR1	-	Design
DR2	-	Land Use and Activity
DR3	-	Movement
DR4	-	Environment
DR7	-	Flood Risk
DR13	-	Noise
E11	-	Employment in the Smaller Settlements and Open Countryside
E12	-	Farm Diversification
E13	-	Agricultural and Forestry Development
LA2	-	Landscape Character and Areas Least Resilient to Change
LA3	-	Setting of settlements
LA5	-	Protection of Trees, Woodlands and Hedgerows
LA6	-	Landscaping Schemes
NC1	-	Biodiversity and Development
NC4	-	Sites of Local Importance
NC6	-	Biodiversity Action Plan, Priority Habitats and Species
NC7	-	Compensation for Loss of Biodiversity
NC8	-	Habitat Creation, Restoration and Enhancement
NC9	-	Management of Features of the Landscape Important for Fauna and Flora
2.3	T6	- Walking

Herefordshire Supplementary Planning Guidance/Documents.

- Landscape Character Assessment 2004 – Updated 2009.
- Biodiversity 2004 – Updated 2009
- Polytunnels 2008.

## 2.4 The Unitary Development Plan policies together with any relevant supplementary planning documentation can be viewed on the Council’s website by using the following link:-

### 3. Planning History

3.1 None identified.

### 4. Consultation Summary

#### Statutory Consultations

4.1 The Environment Agency raises no objections with consideration to further information received on flood risk and drainage issues. A condition is recommended to be attached to any approval notice issued in order to ensure that there is no raising of ground levels within the area of the site classed as 'flood zone 3' (high risk for flooding), in accordance with EA flood data maps.

#### Internal Council Advice

4.2 The Conservation Manager (Landscapes) has responded to the application concluding:

*'This application will cause a change to the landscape character of the site and local surroundings, as a new use will be introduced. The question is whether a balance can be struck between the negative impact of new structures and associated activities in the rural landscape, with conservation objectives and sensitive site management. The mitigation measures proposed are suitable and will reduce the negative impacts on the landscape character and views. Given the limited number of public view points that will experience a cumulative impact, the polytunnels will not appear as a very dominant feature in the landscape. I conclude that the application does demonstrate that landscape character has been taken into consideration and that there will not be a significant negative impact that will change the overriding landscape character, therefore it is in accordance with UDP Policy LA2. The mitigation proposals provided are well detailed and suitable to the site, in accordance with UDP Policy LA6: landscaping schemes.'*

4.3 The Conservation Manager (Ecology) recommends conditions are attached to any approval notice issued. Detail refers to submission and implementation of a method statement and habitat enhancement scheme for the construction of the irrigation pond, detail with regard to the buffer strips along all boundaries and watercourses, which includes construction of a swale between polytunnels and land that is to remain as permanent pasture, and a management plan for the semi-natural habitats on the site

4.4 The Transportation Manager raises no objections stating that whilst the access lanes are narrow, the proposed activity will not generate much more traffic than that generated by the existing lawful use of the land. The volume of extra traffic is well within the capacity of the local highway network, although there will inevitably be occasional short delays.

4.5 The Public Rights of Way Manager raises no objections, requesting that an informative note is attached to any approval notice issued to ensure that footpaths are protected and remain free of obstruction.

4.6 The Land Drainage Manager raises no objections indicating that the Flood Risk Assessment addresses all the flooding issues and that there will be no increase in flood risk either to the site or to the wider catchment and that the drainage proposed is in accordance with SUDS principles. He initially agreed with comments as made by the Environment Agency recommending that the balancing pond should be moved out of the recognised flood zone area, or failing that compensatory storage volume for the area should be provided.

- 4.7 The Principal Planning Officer Minerals and Waste has not responded to the additional information received at the time of writing. Any further comments will be reported verbally at the Planning Committee. The initial response raised concerns about the siting of the pond and detail as submitted in support of the application with particular reference to surface water runoff and landscaping around the pond area.
- 4.8 The Conservation Manager (Archaeology) raises no objections indicating that sites of archaeology interest are situated at least 500 metres from the proposed development, in an area of complex topography which includes natural screening and as such it is considered that the proposed polytunnels will not damage the setting of the sites of archaeology interest that exist within the surrounding landscape.
- 4.9 The County Land Agent raises no objections indicating the proposed development is a suitable form of farm diversification with consideration to the present farm business circumstances, summarising his response that *'in his opinion the polytunnels are essential to the successful outcome of the project'*.

## 5. Representations

- 5.1 Huntington Parish Council has responded to the application stating:

Due to the fact that two members of the parish council had pecuniary/beneficial connections with the applicant Mr R Hammond, the committee members are unable to form a quorum to make any comments on the application on behalf of the Council; and can only report on the views expressed on the questionnaire and at the open meeting held on 17 January 2013.

A questionnaire was sent out to all parishioners in Huntington Parish on 10 January 2013. The results of the questionnaire returned are:-

- a) 8 with no opinion
- b) 6 with some reservations
- c) 19 with strong reservations
- d) 6 were slightly in favour
- e) 17 were strongly in favour

We also enclose a copy of the minutes of the open meeting held at Huntington Village Hall on Thursday 17 January 2013 chaired by Councillor John Hope. The major points discussed at the meeting concerning the planning permission were:-

- The possible visual impact on the landscape of the Arrow
- The potential for any loss of trade from existing businesses i.e. B&B's and self catering.
- Would there as a result of a successful application perhaps be a decline in tourism?
- The possibility of a cumulative effect, by the granting of further applications for other sites in the area.
- The adequacy of the existing road system and the estimated affect on the numbers of vehicles using the roads.
- Diversification in farming.
- The potential for chemical runoff from the poly tunnels.

- 5.2 The Campaign to Protect Rural England have responded to the application with objections, indicating no local employment will be created as a result of the proposal; it will have a negative impact on tourism and that inadequate data has been submitted by the applicant on the run –off and extraction rates from the four proposed fields when covered by polytunnels, and therefore they continue to object to the application.
- 5.3 The Herefordshire Ramblers Association raise no objections.

5.4 Kington Town Council has also commented on the application as follows:

*Kington Town Council objects to the application.*

*The Council considers that elements of the application do not comply with the requirements of Herefordshire Council's SPD of 2008, and that if the application is allowed there will be deleterious effects on Kington as detailed below.*

1. *We note that two of the four fields identified in the application were ploughed and planted during the autumn of 2012. No information has been provided as to whether or not those trees will be able to mature and fruit satisfactorily if permission for poly tunnels is refused. Nor is there any indication of any pre-application advice on this point that might have been given by Herefordshire Council.*
2. **Economic impact.** *We note that there are general statements in the application that assert that growing late-fruiting cherries will be a profitable type of farm diversification; however no business case is presented as appears to be required in the SPD.*
3. *A business case for the proposed development must be balanced against an assessment of its impact on the local economy.*
4. *No consideration has been given to the negative impact on other sectors of the local economy, and in particular, **tourism**. Kington has made strenuous efforts in the last few years to offer a variety of facilities for tourists. Investment has been targeted to promote Kington as a venue where visitors can find good quality accommodation, locally produced food and excellent outdoor activities. Hergest Gardens have an international reputation; several long-distance trails such as the Offa's Dyke path as well as a plethora of local walks and cycle rides in beautiful countryside are easily accessible. A new venture started in 2012 Kington Walks brought in many visitors over a four-day period in September and is expected to expand this year. (T6)*
5. *The income from tourism is vital for the local economy. The income to accommodation providers and to Kington's shops, restaurants and pubs will be jeopardised by the development if allowed.*
6. **Employment.** *(S4) It appears that there will be no additional jobs available for local people. All the employees in the orchards are to be bussed in from Ledbury, and it is not stated whether or not these will originate in Herefordshire.*
7. **Landscape. (LA2 and LA3)** *As previously stated visitors come to Kington for its location in beautiful landscape, the latter embracing the upper reaches of the Arrow Valley and its surroundings. It is our opinion that the landscape assessment in the application belittles the landscape impact. Large areas of plastic sheeting do not meld into a traditional landscape mosaic of old fields, hedges and small stands of woodland. The plastic will be visible as an alien intrusion, from several points in Huntington, and from Brilley Mountain, from the A4111 approaching Kington, and from the Black Mountains. For local people the landscape is their heritage and thus also part of the nation's heritage. An ancient and fragile landscape needs to be protected.*
8. **Landscape designation.** *The area of the Marches around Huntington and Kington in the northwest Herefordshire hills has been described as one of the most tranquil in England. It has been designated by the Herefordshire Landscape Assessment 2008 as a type of Principal Timbered Farmland, characterised as having one of the oldest field patterns in the county. The Management Guidelines specify conservation, restoration and enhancement. Examination of early OS maps reveals that even though there are*

remarkably stable patterns there was, during the last century, a good deal of loss of hedgerows, hedgerow trees and woodland. Although the pace of change might have been slower than in some other areas, it is, nevertheless taking place and leading to a weakening of the landscape character and value. We consider that the proposed development will add to that devaluation.

9. **Water (DR6, DR7)** The River Arrow flows through Kington. Local riparian owners are adamant that its present good quality should not be endangered. Trout live in it, and recently salmon have been spotted. We consider that contamination from the sprays used in the orchards and the likely large volume run-off from the extensive plastic covers will inevitably affect the volume and constitution of the river water.
10. The Arrow is a significant tributary of the Lugg, itself an SSSI that has been assessed recently as contaminated. The Lugg feeds into the Wye. Thus the management of the upper reaches of the Arrow can affect major rivers in Herefordshire. In our view, particularly the two fields proposed as orchards on the south side of the lane to Llanarrow are likely to pollute the river if allowed.
11. Kington Allotments are on land that borders the Arrow on the east side of the town. They are popular with a waiting list of applicants; vegetables, fruit and some poultry are produced sustainably. They have already suffered from flooding from the river. If the upper reaches of the Arrow are inundated with large volumes of run-off from the poly tunnels in heavy rain the viability of the allotments are threatened and standing crops could well be contaminated.
12. The proposed balance pond does not seem to address the difficulties adequately; in particular we consider much too close to the river bank.
13. The obverse situation is also important – if extraction rates are high for the trickle irrigation system proposed, the river level could be very depleted.(DR4)
14. The River Arrow is part of the natural eco-system, it is itself a tourist attraction, and is a resource beyond Lower Hengoed.
15. **Traffic (T8)** A major concern in Kington is the volume of traffic generated by the development that will need to travel along Hergest Road. The applicant states that all labour will be bussed in from Ledbury (daily at some times of year). The harvested fruit will be taken out along the same route to the Haygrove site in Ledbury. All the materials needed initially to erect the poly tunnels and subsequently to maintain them will be carried along the same Hergest Road.
16. The Town Council has repeatedly drawn Hereford Council's attention to the unsuitability of Hergest Road for HGVs and increases in the volume of all vehicles. Despite being within the town boundary there is no pedestrian footpath, nor any traffic-calming device. Residents in the road, as well as people from Arrow View outside the town, walk along the road, since there is no bus service. There is a pedestrian access to Lady Hawkins School and at least three footpaths exit onto it. The limited character of this road is a major reason for the under-development of Hergest Camp, a site scheduled for industrial development. The application, if allowed, will lead to an inevitable, unacceptable increase in vehicular traffic.
17. The increase in traffic is also a threat to walkers, cyclists, horse riders and other road users within the lanes surrounding the Lower Hengoed. As indicated earlier, tourists appreciate and use quiet lanes; local residents need them to access their houses. Heavy

*vehicles in narrow lanes with high banks and few passing places are antipathetic to their traditional use.*

### **Summary**

*The Council objects to the application because of its likely adverse effects on the landscape, the local economy, the viability of the River Arrow and the undesirable increase in heavy traffic.*

- 5.5 A letter of objection has been received from Mr. M. Owen on behalf of The Angling Trust. The letter states objections in consideration of the substantial damage the proposal will have on the River Arrow and its environment due to pollution, water extraction and water run-off.
- 5.6 A letter of objection has been received from Celia Kibblewhite on behalf of Kington Allotments Association. Objections are raised due to concerns about increased flood risk from surface water run-off that will exceed storage capacity of the proposed balance pond. The River Arrow borders the Kington allotments. Concerns are also raised about sustainability and public highway matters.
- 5.7 118 letters of objection have been received from members of the public, at the time of writing this report, from occupiers of local dwellings as well as dwellings located further away. These also include a letter from a planning consultant on behalf of the owners of Middle Hengoed, Huntington.

Main planning issues of concern/objection can be summarised as follows:

- The proposal will not have any local economic benefit to the Huntington and Kington area.
- The proposed development will have a serious impact on the economic viability of the local economy and in particular in relationship to a nearby bed and breakfast business as well as other tourist facilities.
- Mitigation proposals as offered will not off-set damage to the landscape as can be seen in relationship to a nearby poly tunnel development on land at Lower House Farm, Huntington.
- The rises and falls in farming fortunes are not a reason to have an irreversible impact on the quality of the landscape.
- Two fields on site are already planted with cherry trees in anticipation of planning permission being granted which makes a mockery of the planning system.
- Polytunnel hoops will remain on site, these are also unsightly.
- Unsuitable public highway provision serving the site and the surrounding area in relationship to the proposal, as well as negative impacts on outdoor pursuits such as walkers/equestrian activities.
- Surface water run off and flooding issues in relationship to the surrounding area and the River Arrow.
- Business case in support of the application is insufficient and does not adequately demonstrate a satisfactory business case for the proposal.
- Impact on the special quality of the 'border landscape' quality between England and Wales and that of the Offa's Dyke footpath.



- Industrialisation on the surrounding rural landscape.
- Detrimental impact to local ecology.
- Insufficient community consultation prior to application being submitted to the Council for planning consideration.
- Insufficient provision on site for employee welfare consideration, i.e. wash and toilet facilities, and artificial lighting etc.
- The proposed balance pond is in-sufficient for area of polytunels as proposed.
- Proposal is contrary to the aims of the Herefordshire Sustainable Food and Drink Strategy.

5.8 59 letters in support of the application have been received from members of the public at time of writing this report. These are mostly from occupiers of dwellings in the locality of the Huntington area).

Main planning related comments made can be summarised as follows:

- The applicant farms a traditional family run beef and sheep livestock producing farm which produces an income that is not considered sufficient to sustain its economic survival and therefore alternative means of income have to be found.
- The proposal for cherry producing supports a Herefordshire based company.
- No evidence to suggest polytunnel development has a negative impact on tourism in Herefordshire. Available statistics from Kington Tourist Information Centre indicate a continuing upward trend.
- Application will enable a locally produced food which will help contribute towards a reduction in food miles and carbon emissions.
- Poly tunnels are not a permanent fixture being a temporary structure.
- Landscape impact can be mitigated if considered necessary by means of additional traditional variety type plantings.
- Proposal represents a form of farm diversification to which Herefordshire Council's Unitary Development Plan has a policy (Policy E12: Farm Diversification).
- Cherry production on site only has a life span of approximately 25 years and therefore any poly tunnels on site in relationship to this crop will not become a permanent fixture.
- Proposal will have some positive effects in relationship to ecological issues.
- Farming practices evolve as a result of consumer demand.

5.7 The consultation responses can be viewed on the Council's website by using the following link:-

<http://news.herefordshire.gov.uk/housing/planning/searchplanningapplications.aspx>

Internet access is available at the Council's Customer Service Centres:-

[www.herefordshire.gov.uk/government-citizens-and-rights/complaints-and-compliments/contact-details/?q=contact%20centre&type=suggestedpage](http://www.herefordshire.gov.uk/government-citizens-and-rights/complaints-and-compliments/contact-details/?q=contact%20centre&type=suggestedpage)

## 6. Officer's Appraisal

- 6.1 Polytunnels are a contentious form of development in general and raise many issues, in particular their visual and landscape impact, drainage and potential economic benefits/disbenefits associated with this growing technique. These have to be balanced against the potential positive contributions that polytunnels provide in relationship to sustainable food production and benefits to the local economy.
- 6.2 The key issues in relationship to this application can be defined as follows:
- Landscape and visual impact (including cumulative impact);
  - Drainage and flooding issues;
  - Economic impact;
  - Impacts on tourism;
  - Biodiversity
  - Public highway access.

### Landscape, visual and cumulative impacts

- 6.3 The site for the development is in an area of landscape character classed as Herefordshire's Ancient Timbered Farmlands, in accordance with the Landscape Character Assessment. This farmland is made up of mainly rolling topography consisting of a patchwork of mainly traditional small scale enclosed fields surrounded by native trees and hedgerows and small ancient woodland copses. The area is sparsely populated with a scattering of isolated dwellings and farmsteads.
- 6.4 Policy LA2 of the HUDP: Landscape character, clearly states that *'proposals for new development that would adversely affect either the overall character of the landscape, as defined by the landscape character assessment and the historic landscape characterisation or its key attributes or features will not be permitted'*. The policy further states that *'proposals should demonstrate that landscape character has influenced their design, scale, nature and site selection'*.
- 6.5 In support of this application, the applicant has submitted a landscape and visual impact assessment which indicates the landscape character as one of high quality with a limited capacity to accommodate change. The assessment concludes that the development proposal will have a moderate to minor negative impact on the overall landscape character.
- 6.6 Information in support of the application indicates that cherry trees have a life span of approximately 20 years and that after this time the polytunnels would be removed and the land would revert to its current agricultural state.
- 6.7 Many letters of objection raise concerns about the landscape and visual impact, including that of the cumulative impact with an existing polytunnel development nearby, which is situated approximately 2km away in a northerly direction from the site.
- 6.8 As indicated earlier in this report, the surrounding countryside is one of rolling topography with long range views both into and out of the site, and as such it is considered that there will be a visual impact on the landscape as a result of the proposed development and therefore the proposal will result in some change to the overall surrounding landscape character.
- 6.9 The applicant, in support of his application, has offered mitigation proposals in order to off-set any landscape harm. These include buffer zones around existing mature trees, hedgerows and watercourses, restoration/improvements to existing hedgerows, planting of new native hedgerows and small pieces of woodland copses, with long term management

---

Further information on the subject of this report is available from Mr P Mullineux on 01432 261808

objectives for biodiversity enhancement. It is noted that the Conservation Manager, (Landscapes), in her response to the application indicates that these measures will maintain the underlying landscape character of the site and satisfactorily mitigate the visual intrusion of polytunnels in the medium term.

- 6.10 It is considered that the construction of polytunnels on an area of some 11 hectares, from a total field area of 17.22 hectares, (4 fields), is acceptable with the mitigation proposals as offered by the applicant. However this would also require the existing hedgerows to be allowed to grow taller in order to minimise the 'local' effect of the development. With consideration to the lifespan of cherry trees being approximately 20 years, it is recommended that any planning permission is subject to a condition limiting polytunnel coverage to 20 years from the date of this planning approval. (This allows for the establishment of the cherry trees on site, and thus preventing use of the site for any other fruit crop requiring polythene coverage).
- 6.11 The application is for polytunnels covering the majority of the land area of 4 existing fields which are typical of the surrounding landscape character and does not involve the destruction or alteration of any of their surrounding boundaries, making use of the existing field patterns. Whilst the hooped structures are to remain in situ throughout the year, the proposal for polytunnel coverage would be limited to the growing season from April – September. It is noted that both Policy LA2 of the HUDP and the Polytunnels Supplementary Planning Document clearly indicate that development proposals should demonstrate that landscape character has influenced design, scale, nature and site selection. It is considered that the proposal, with the mitigation measures proposed, represents a development that satisfactorily reflects the landscape character by making use of the existing field patterns, offering a range of acceptable mitigation proposals and whilst it is acknowledged that there will be a visual impact in the wider landscape, this by its nature will reflect the overall field character. It is not considered that there will be a significant adverse impact on the landscape in terms of any cumulative impact with the nearby site. This located in a northerly direction from the application site, which itself is a smaller site in land area, is less prominent in the context of the wider landscape and benefits from considerable surrounding natural vegetation that contributes towards mitigating its own and cumulative effect assessed in relation to this proposal. Further still it is noted that the site does not form part of any landscape designation. Impacts on areas of archaeological interest, as well as the Offa's Dyke footpath, (a localised impact) and other public rights of way within the area are considered to be acceptable in relation to the overall surrounding complex land and field matrix, which as referred to by the Conservation Manager (Archaeology) includes much existing natural screening which will contribute towards integrating the development into the patchwork character of the overall landscape.

#### Drainage and flooding issues

- 6.12 The site for the development is located alongside and partly within a flood risk area, (River Arrow- Flood Zone 3), in accordance with Environment Agency (EA) flood data maps, and therefore the applicant submitted a flood risk assessment.
- 6.13 The application proposed an irrigation pond to be sited within an area defined as Flood Zone 3, to which the EA, the Conservation Manager (Ecology) and the Minerals and Waste Manager raised concerns in relation to its siting and detail. Therefore as a consequence the applicant submitted revised details in the form of a report on the irrigation pond and accompanying flood risk assessment report.
- 6.14 This revised information included information on the re-siting of the pond onto land outside of Flood Zone 3, as well as information with regards to pond construction and landscape constraints and mitigation proposals.

- 6.15 The EA raise no objections to the revised siting of the pond recommending a condition with regards to no raising of ground levels within the site, on land within Flood Zone Area 3 in accordance with their flood risk data maps. The applicant proposes water abstraction from the River Arrow via a trickle irrigation method. This form of water abstraction is presently exempt from the requirements for a water abstraction licence from the EA, whilst water abstraction for non-trickle irrigation methods where water abstraction is under twenty cubic metres per day is also exempt.
- 6.16 No objections are raised in respect of land drainage issues. The Land Drainage Manager considers that the Flood Risk Assessment covers everything that is required in respect of flood risk, indicating that in his opinion the proposed drainage may well improve the flood risk to the wider catchment and that the initial concerns raised have been addressed in consideration of the additional information received.

Economic Impact

- 6.18 The application proposes sweet cherry production on an area covering approximately 11 hectares of land that forms part of 4 fields covering a total of 17.22 hectares. These form part of a larger traditional upland livestock and arable enterprise covering an area of 126 hectares. The farming business also rents 20 hectares on an annual basis and this provides additional livestock grazing land for livestock produced on the holding.
- 6.19 The proposed cherry production enterprise is a joint venture between the applicant and Haygrove Ltd of Ledbury, representing a form of farm diversification into another form of agricultural related business venture.
- 6.20 The current farming enterprise has been severely affected by Tuberculosis, (TB), which has affected its suckler herd of cattle, which as a consequence has put restrictions on cattle movements on and off the holding and the consequential ability of this section of the farming business to make adequate financial returns.
- 6.21 The National Planning Policy Framework in Chapter 3: Supporting a prosperous rural economy emphasises how planning policies should support economic growth in rural areas, promoting the development and diversification of agriculture and other land based rural businesses.
- 6.22 Policy E12: Farm diversification in the HUDP also encourages farm diversification schemes where the *'proposal is consistent in scale with its rural location serving to retain the open character of the countryside'*
- 6.23 It is generally accepted that the use of polytunnels has benefits in assisting with the production of top quality fruit for the British market, and thus reducing air miles, by producing locally grown home produced fruit over a longer growing season by means of the implementation of polytunnels. It is also noted that one of the objectives of the Herefordshire Sustainable Food and Drink Strategy is to support and promote local producers across the County.
- 6.24 The business case as put forward by the applicant indicates that the cherry orchard is planned as a collaborative project with Haygrove (Ledbury) Ltd, and that the proposal will enable a form of suitable farm diversification in order to supplement the farm business` declining income, which is presently very much a local business that spends approximately £120k annually in the local economy. Much of the farming business` existing work is done through locally sourced contractors, whilst the farm also employs a full-time member of staff, (as well as the owner who also supplements his income from work sourced off the farm). It is anticipated that the cherry production enterprise, whilst largely managed via existing Haygrove employees, who are based in the Ledbury area, (from where fruit pickers will be transported on a daily basis), will generate the equivalent of 3 full-time jobs and potential to generate nearly £500k income for the farming enterprise at Lower Hengoed Farm.

- 6.25 Clearly the proposed cherry production enterprise represents a form of suitable farm diversification that will complement the existing farming enterprise. The economic benefits to the existing business appear to be substantial and should secure the long-term viability of the farming enterprise which has been severely hit by TB as well as a decreasing income from its other traditional enterprises of sheep and corn production.
- 6.26 Therefore, whilst the economic benefits of the proposal directly to the local economy are not significant, the proposal does represent a form of income that will ensure the financial well-being of the business itself, thus ensuring its continued contribution towards the local economic community and representing an appropriate and compatible form of farm diversification as a joint business venture with another Herefordshire based company.

#### Impacts on Tourism

- 6.27 A number of letters of objection received refer to concerns about adverse impacts on tourism as a result of the proposed development and it is acknowledged that a successful bed and breakfast and holiday unit business operates from one of the nearby properties to the site.
- 6.28. Tourism is a vital part of the rural economy of Herefordshire and very often compliments farming activities within the County. Tourism businesses must be protected and promoted in a sustainable form, like other appropriate rural businesses.
- 6.29 There is presently no substantive evidence to suggest that polytunnel development has a negative impact on tourism. The nearest tourism facility to the site is located close to the site's south eastern boundary. Although it is acknowledged that there will be a visual impact as a result of the proposed development and also that the area offers some outstanding walking routes, a reason for refusal on tourism grounds could not be substantiated. Furthermore, the nearby B&B/holiday accommodation is separated from the site by natural vegetation and does not look directly into the proposed polytunnel area, which it is considered will have only a localised affect for approximately 6 months of the year when polytunnels are covered.

#### Biodiversity

- 6.30 The River Arrow Special Wildlife Site does adjoin the site but the Conservation Manager (Ecology) raises no objections, recommending a condition to be attached with regards to a working method statement and habitat scheme. This should include detail in relationship to the construction method and habitat enhancement of the irrigation pond and associated works to the stream, swale construction between polytunnels and permanent pasture, and management of land and hedgerows associated to the river and the tributary stream.

#### Public highway access

- 6.31 A transport statement was submitted in support of the application which indicates that the peak labour requirements on site will be during the harvesting season from late July for approximately 3 weeks when around 30 fruit pickers will be required on site. The statement indicates that these fruit pickers will be transported to the site via a bus in collaboration with the requirements of the site at Lower House located some 3 km north of the application site. Therefore there will be no overall increase in vehicle movements on the local road network. Otherwise vehicle movements in relationship to the development will be similar to other traditional agricultural activities.
- 6.32 The Transportation Manager in his response to the application raises no objections indicating that *'whilst the access lanes are narrow, the proposed activity will not generate much more traffic than that generated by the existing lawful use of the land. The volume of extra traffic is*

*well within the capacity of the local highway network, although there will inevitably be occasional short delays*.

- 6.32 With consideration to the nature of the proposed development and existing land use in association to agricultural use and the fact that the site is being run with a connection to the site at Lower House Farm, from where fruit will be harvested either before or after the fruit harvest at Lower Hengoed and with consideration to the response received from the Transportation Manager, there are no objections on public highway matters.

### Conclusions

- 6.33 Clearly this is a development proposal that has generated many letters of objection as well as support from members of the public, with many of the comments raised referring to landscape and visual impact, drainage, economic impacts as well as impacts on tourism and the local road network.
- 6.34 There can be no doubt that the proposed erection of polytunnels will have an impact on the character of the surrounding landscape, however this impact has to be judged in relationship to all other material planning considerations.
- 6.35 The proposed polytunnel development respects the traditional field patterns of the location and the applicants have offered suitable mitigation proposals in order to mitigate the visual impacts of the development and assist in integrating the proposal into this high quality landscape. Polythene coverage would be restricted to a maximum of six months of the year and the cherry trees on site have a limited life span of around twenty years. Therefore the proposed development is considered to be of a temporary nature, as in the long term the site can be returned to its former appearance.
- 6.36 The development is also considered acceptable in relationship to drainage issues, the applicants having revised their proposals from that as originally submitted by relocating the pond onto land outside of the recognised flood risk area. With suitable mitigation proposals the siting of the pond is considered acceptable and it is noted that the Land Drainage Manager considers the drainage issues to have been addressed in an exemplary fashion.
- 6.37 The development is considered to represent a form of farm diversification on an upland stock rearing holding, which has suffered poorer financial returns in recent years. This is partly due to circumstances outside the control of the applicant, such as the contracting of TB in the herd of cattle. The new business venture for the holding is a joint venture with another Herefordshire based business which will help towards reduction in food air miles through the production of home grown quality fruit as required by the British supermarkets and public.
- 6.38 There is no proven evidence to support the suggestion that this form of polytunnel development will have a negative impact on the County's highly valued tourism sector.
- 6.39 It is not considered that the proposal will have any serious implications for the surrounding road network. In terms of the existing land use and agricultural activities, the only additional impacts in relationship to the surrounding public highways is the transportation of fruit pickers during the harvesting season. This would be limited by the nature in which they will be bused to the site and it is therefore considered that this issue has been addressed in a satisfactory manner.

## **RECOMMENDATION**

**That planning permission be granted subject to the following conditions:**

- 1. A01 Time limit for commencement (full permission)**

---

Further information on the subject of this report is available from Mr P Mullineux on 01432 261808

2. **B01 Development in accordance with the approved plans**
3. **G10 Landscaping scheme**
4. **G11 Landscaping scheme - implementation**
5. **No poly tunnel or associated development will be situated within 30 metres of the boundary of any residential curtilage of any dwelling house that is located outside of the application site. This land shall not be used in connection with the growing of cherries on site, including such uses as ancillary storage, servicing or for staff welfare facilities or congregating areas.**  
  
**Reason: To safeguard the amenities of the occupiers of dwelling houses within the immediate vicinity and to comply with Policy DR2 of the Herefordshire Unitary Development Plan.**
6. **In the event of any polytunnel hereby permitted becoming redundant for the growing of cherries upon the application site, the poly tunnel which includes the supporting structure shall be removed off site within a period of 6 months of it being last used for cherry production.**  
  
**Reason: To ensure that any structure that becomes redundant for fruit production does not remain on site and to comply with Policy LA2 of the Herefordshire Unitary Development Plan.**
7. **None of the poly tunnels hereby permitted shall be covered with polythene during the period from 1st October until April 1st in the following year.**  
  
**Reason: To ensure that the visual impact of the development hereby permitted is limited to the growing season during leaf cover and to comply with Policy LA2 of the Herefordshire Unitary Development Plan.**
8. **None of the poly tunnels hereby permitted shall be lit with artificial lighting.**  
  
**Reason: In the interests of the visual amenity and to comply with Policies DR2 and DR4 of the Herefordshire Unitary Development Plan.**
9. **The polytunnels and any supporting infrastructure hereby permitted shall be removed off site within 20 years of the date of this planning permission and the land afterwards will be returned back to its original condition in accordance with a timetable to be submitted to the Local Planning Authority no later than 19 years of the date of this planning approval.**  
  
**Reason: In consideration of the visual and amenity impact on the surrounding landscape and the life expectancy of the cherry crop and to comply with Policies DR2 and LA2 of the Herefordshire Unitary Development Plan.**
10. **There shall be no raising of ground levels within flood zone 3, the 'high risk area' 1% annual probability floodplain, of the site.**  
  
**Reason: To alleviate the increased risk of flooding and to comply with Policy DR7 of the Herefordshire Unitary Development Plan.**
11. **Prior to any development on site, full details will be submitted to the Local Planning Authority and approved in writing with regards to implementation of a**

**working method statement and a habitat enhancement scheme. This shall be based on the recommendations in the ecological report dated 9 October 2012 and include full details and timetables for the:**

- construction and habitat enhancement of the irrigation pond and associated works to the stream**
- swale construction between the poly tunnels in Field 4 and land that is to remain as permanent pasture**
- management of buffer strips alongside all boundaries and watercourses**
- management of the remaining permanent pasture land, hedgerows, the River Arrow and the tributary stream.**

**Reason: In consideration of the ecological impact of the development and mitigation requirements and to comply with Policies NC1, NC4, NC6, NC7 and NC8 of the Herefordshire Unitary Development Plan in relation to nature conservation and biodiversity and to meet the requirements of The National Planning Policy Framework and the NERC Act 2006.**

**Informatives:**

1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations. Negotiations in respect of matters of concern with the application (as originally submitted) have resulted in amendments to the proposal. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
2. The applicant is reminded that the adjacent public rights of way must be kept open and free from obstruction at all times.

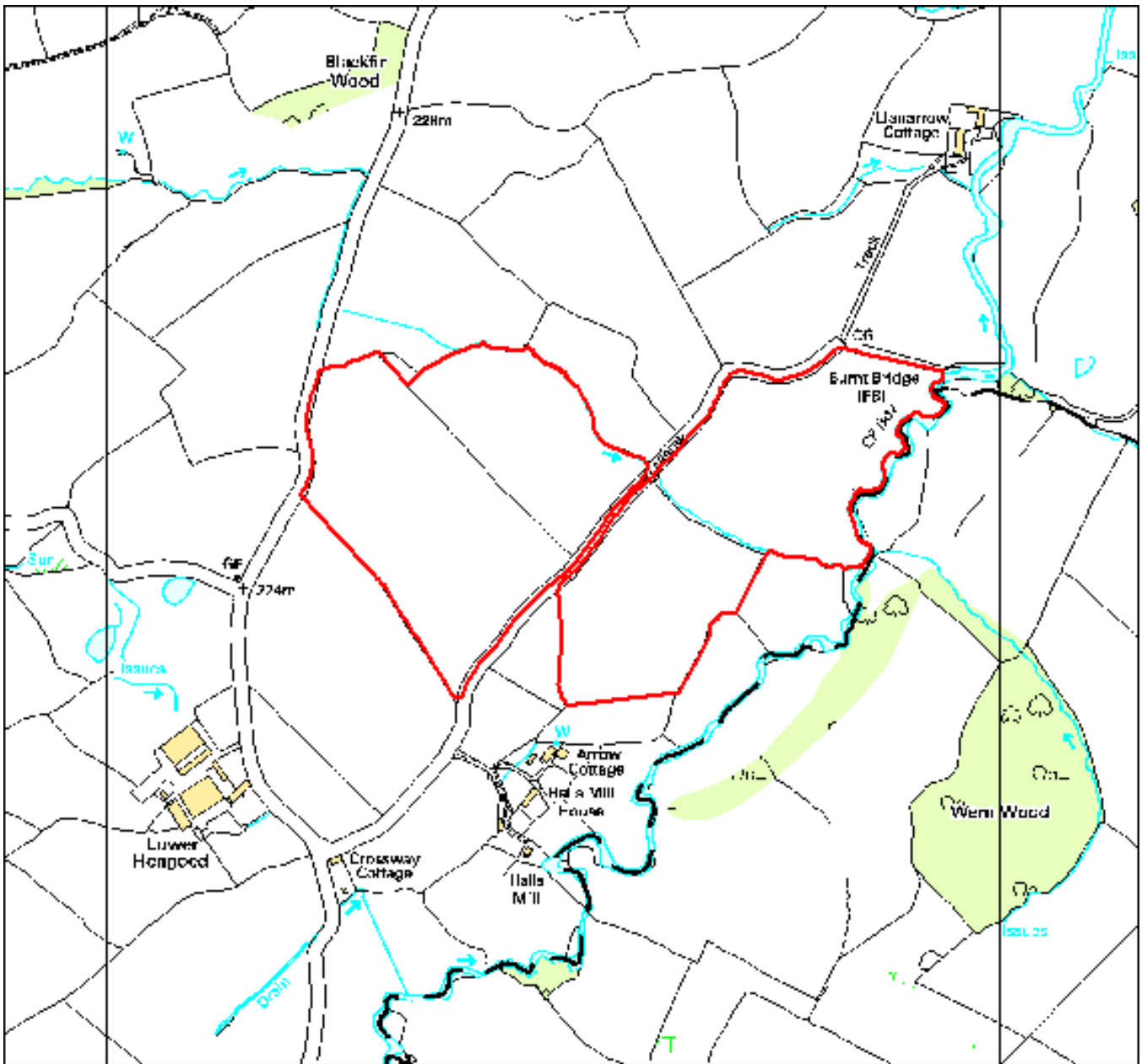
Decision: .....

Notes: .....

**Background Papers**

Internal departmental consultation replies.





This copy has been produced specifically for Planning purposes. No further copies may be made.

**APPLICATION NO:** N/123316/F

**SITE ADDRESS :** LOWER HENGOED, HUNTINGTON, KINGTON, HEREFORDSHIRE, HR5 3QA

Based upon the Ordnance Survey mapping with the permission of the controller of Her Majesty's Stationery Office, © Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Herefordshire Council. Licence No: 100024168/2005

Further information on the subject of this report is available from Mr P Mullineux on 01432 261808





<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>17 JULY 2013</b>
<b>TITLE OF REPORT:</b>	<b>S122524/F - CHANGE OF USE OF DWELLING INTO 3 NO APARTMENTS AT FERRYMEAD, 14 VILLA STREET, HEREFORD, HR2 7AY</b>  <b>For: Mr Ballantyne per Mr Daniel Forrest, Court Cottage, Bartestree, Hereford, HR1 4DA</b>
<b>WEBSITE LINK:</b>	<a href="http://news.herefordshire.gov.uk/housing/planning/58286.aspx?ID=122524&amp;NoSearch=True">http://news.herefordshire.gov.uk/housing/planning/58286.aspx?ID=122524&amp;NoSearch=True</a>

**Date Received: 10 September 2012    Ward: Belmont    Grid Ref: 349891,239161**

**Expiry Date: 14 November 2012**

Local Members: Councillors A Bridges, PJ Edwards and GA Vaughan-Powell

#### **1. Site Description and Proposal**

- 1.1 The application site comprises a detached three storey dwelling that is sited to the north of Villa Street and opposite the car park of The Vaga Tavern. The rear garden of the dwelling slopes down to the River Wye. The dwelling was one of a pair of dwellings approved in 2002.
- 1.2 The existing dwelling currently comprises the following accommodation:  
  
Lower floor – Garage, bedroom, dressing room, en-suite, utility and hall.  
Middle floor – Study, living room, kitchen, Hall and WC  
Top floor – 3 x bedroom, bathroom and store.
- 1.3 Externally, an existing driveway leads to the garage. The driveway is shared with the adjoining property known as The Holt and has a steep gradient. Each dwelling is capable of parking one car within its curtilage, but with the shared surface, an additional car can be parked in a central position, straddling the boundary to the two properties.
- 1.4 The proposal is for the conversion of the 4 bed property into three apartments as follows:  
  
Proposed Lower Floor - 2 x bedroom, kitchen / lounge, hall, bathroom  
Proposed Middle Floor – 2 x bedroom, kitchen / lounge, lobby  
Proposed Top Floor – 1 x bedroom, kitchen / lounge, bathroom, hall
- 1.5 Externally, alterations are proposed to alter the staircase to the middle floor (main entrance) so that the porch is suspended and pillars removed. A new window would replace the garage door, and to the side elevation a new door would be inserted to allow access to the lower ground floor apartment.

---

Further information on the subject of this report is available from Ms K Gibbons on 01432 261781

- 1.6 Parking is provided for three off road spaces (one per unit). The three spaces will each have a dimension of 2.9m by 5m (slightly larger than the standard 2.4m x 4.8m). To the rear of these, and adjacent to the highway will be a defined by brick paved pathway of 0.9m in width, leading to the entrances to the flats. In response to local concerns about the parking provision, the gradient of the driveway will be reduced so that this is now proposed at 1:20. It should be noted that an application to undertake the necessary works to the shared driveway at the adjoining property (The Holt), is also being considered on this agenda (131292/FH)

## 2. Policies

### 2.1 National Planning Policy Framework

Particular consideration should be given to paragraphs 7, 14, 17, 47, 49 and 50. These set out the core principles of sustainable development and the need for decision takers to approve development proposals that are considered to be sustainable development where they accord with the development plan.

### 2.2 Herefordshire Unitary Development Plan

S1	-	Sustainable Development
S6	-	Transport
DR1	-	Design
DR2	-	Land Use and Activity
DR3	-	Movement
DR5	-	Planning Obligations
DR7	-	Flooding
H1	-	Hereford and Market town: Settlement boundaries and Established Residential Areas
H13	-	Sustainable Residential Development
H17	-	Sub-division of Existing Houses
T11	-	Parking Provision

- 2.3 The Unitary Development Plan policies together with any relevant supplementary planning documentation can be viewed on the Council's website by using the following link:-

<http://www.herefordshire.gov.uk/housing/planning/29815.aspp>

## 3. Planning History

- 3.1 CW2000/3185/F – 2 no. four bed dwellings – Refused 3 January 2001.
- 3.2 CW2001/1870/F – 2 no. four bed dwellings – Approved with Conditions 12 October 2001.
- 3.3 CW2002/0653/F – Erect 2 no. 4 bed dwellings – Approved with Conditions 1 May 2002.
- 3.4 S110621/F – Change of use of dwellings into 3 apartments – Withdrawn 21 June 2011.

## 4. Consultation Summary

### Statutory Consultations

- 4.1 Welsh Water raise no objection and recommend conditions be imposed.

### Internal Council Advice

- 4.2 The Transportation Manager made the following comments:

---

Further information on the subject of this report is available from Ms K Gibbons on 01432 261781

### **Comments on initial submission:**

Whilst in geometric terms, three parking spaces have been achieved for the proposed development, this has required much manipulation to achieve the minimum standards required for parking spaces and turning and resulted in the full width of Villa Street and the far verge area to the post and rail fence being taken into account for turning.

It is dubious whether the required width of 4.8m for the two parking spaces could be achieved within the property ownership, and conflict with the evidence on site from the visible fence boundary within the rear of property which is located equidistant between the two properties and indicates that only around 4.5m can be achieved.

The proposed layout also requires the cars to park close to the wall of the former garage (around 400mm scaled from the plan and checked on site). The proposed entrance to the lower unit is to be located on this facade, and therefore the access between and in front of the parked vehicles will be very severely restricted for pedestrian access to the front door, even more so if the full 4.8m cannot be achieved. Parking the vehicles further away from the façade, would not improve the pedestrian access between the vehicles, and would unacceptably reduce the turning area available behind, requiring vehicles to reverse along Villa Street or make multiple movements to try and achieve turning which would result in the street being obstructed for longer.

Furthermore the access driveway gradient is very steep, around 1 in 7, towards the proposed door, making use of the parking spaces difficult..

Therefore I consider that the use of the two adjacent steep parking spaces is likely to be undesirable, difficult and restrictive to access and that therefore, in the absence of parking restrictions to Villa Street and the absence of any vehicular traffic past this point, cars are more likely to be parked on street restricting the use of Villa Street itself, a well used pedestrian and cycle route, and also visibility for drivers exiting adjacent property driveways.

### **Comments on Amended plans:**

The driveway gradient amendments now proposed for both Ferrymead and The Holt (under separate application (131292/FH) will make the driveways much more useable and thereby will be likely to remove on street parking that currently occurs. The parking provision shown is considered acceptable.

The width of the parking spaces now proposed will allow vehicles to commence to turn within the parking spaces and therefore turning in one movement will be achievable within the available width and length of Villa Street prior to the bollards.

Whilst the visibility for drivers from the parking spaces is limited by the hedge of the adjacent property to the west, visibility for approaching cyclists of any emerging vehicles will be greater and in my view acceptable. A path has also been included between the parking spaces and Villa Street.

Therefore my recommendation is for approval subject to conditions.

## **5. Representations**

- 5.1 Hereford City Council makes the following comment: We support the principle of those properties being brought back into use; however we have got some anxieties over the access and vehicular movements onto the adjacent road and cycle way.

- 5.2 To date 26 letters of objection and concern have been received from local residents. The comments made can be summarised as follows:
- Additional traffic would be generated in the narrow street and lead to parking problems.
  - Conflict of traffic movement on this busy pedestrian and cycleway to city, supermarkets and school. A route that is promoted by the Council and is very busy at peak times (school runs etc.).
  - There is no pavement.
  - Parking is already a problem on this stretch of Villa Street as around half of the dwellings have no off street or adjacent on street parking. Of the other half, many have inadequate provision. Parking opportunities are at a minimum.
  - Three flats would be 6 adults and possibly six cars so any additional cars would be using the on street parking in the area that is already at capacity.
  - There is minimal / insufficient space to turn around so people have to reverse out of the street. The movements would be by multiple movements.
  - There is insufficient space under the cantilevered stairway / porch for a car.
  - The residents who live in the area are a 'community' .
  - Flats would be out of character with the area.
  - Additional traffic and people may lead to noise and disturbance.
  - Negative visual impact on the character of the street.
  - Bin area would potentially flood.
  - Problems with sewerage capacity and water pressure in the area.
  - One house with two spaces would be better and more appropriate.

- 5.3 70 letters of support have also been received that, in addition to just general support, also make the following comments:

- Good idea as a wider range of accommodation.
- Meet a housing demand / need.
- No problems with sewerage in area.
- No adverse impact on pedestrians / vehicles from traffic.
- These would be some of the most visible driveways in Villa Street.
- The improvements to steep drive are better especially for turning in and out of the drive – increasing safety.

- 5.3 A petition in support of the proposals (102 signatures) has also been received.

- 5.5 The consultation responses can be viewed on the Council's website by using the following link:-

<http://news.herefordshire.gov.uk/housing/planning/searchplanningapplications.aspx>

Internet access is available at the Council's Customer Service Centres:-

[www.herefordshire.gov.uk/government-citizens-and-rights/complaints-and-compliments/contact-details/?q=contact%20centre&type=suggestedpage](http://www.herefordshire.gov.uk/government-citizens-and-rights/complaints-and-compliments/contact-details/?q=contact%20centre&type=suggestedpage)

## **6. Officer's Appraisal**

- 6.1 The key issues for consideration are:

1. The principle of development and sustainability.
2. Design
3. Highway and pedestrian safety
4. The 'Fall Back' position
5. Section 106
6. Flood Risk and drainage

- 6.2 The application site lies within the urban settlement boundary of Hereford City, within which residential development is supported where it would comply with the other relevant policies of the Unitary Development Plan. Of particular relevance in this instance is policy H17 that considers the subdivision of larger dwelling into flats or bedsits. It is noted that these can increase the supply of affordable lower cost housing, particularly for single person households and represents a more efficient use of stock. In principle such developments should be supported provided that adequate living arrangements can be achieved and that appropriate car parking can be provided.
- 6.3 The dwelling is a detached property sited on a relatively quiet street that has good pedestrian and cycle links to the city centre. The proposed development would, by virtue of its siting, represent a sustainable form of development that contributes to the economic, social and to a lesser degree, environmental roles outlined in paragraph 7 of the NPPF. As such, paragraph 14 of the NPPF directs that the proposal be approved unless it conflicts with the adopted development plan policies.
- 6.4 Policies DR2, H13 and H17 of the Unitary Development Plan consider the impact of development on the character of the area and amenities of local residents. It is acknowledged that the subdivision of a dwelling can bring about an increase in movement and potentially noise and disturbance. The proposed development is considered to be relatively small scale, with the conversion of a large 4 bed dwelling to three apartments (1 x 1 bed and 2 x 2 bed). The flats would have access to a rear garden and each apartment would have one parking space and as such the amenities of the occupants can be satisfactorily accommodated. The proposal would not, by virtue of its scale and siting represent such an intensification of a residential use that it would be likely to significantly harm or impact upon the amenities already enjoyed by local residents.
- 6.5 The area around the site is an eclectic mix of dwellings types and sizes, with a public house and its car park directly opposite. The subdivision of this unit into flats would not be uncharacteristic or out of keeping with the area, and would add to the mix of dwellings available in the area that is supported by UDP and NPPF policy. The small design changes to the external appearance are unobtrusive and in keeping with the existing property.
- 6.6 The key concern locally is the potential increase in traffic movements along this part of Villa Street and the likelihood of increased pressure on parking provision in the area. Following initial objections from local residents and the Transportation Manager, revised plans have been submitted that successfully provide three car parking spaces within the curtilage of the site. These are wider than the standard space, and to ensure manoeuvring can be achieved given the restricted width of Villa Street. To improve safety and visibility, provision has also been made for a path, demarked in paving slabs, to ensure that there is both space to manoeuvre and so that there is good forward visibility to the site from pedestrians and cyclists.
- 6.7 In addition to this, the proposal involves altering the gradient of the driveway so that the driveway will be 1:20. This will significantly improve the current situation and allow for much safer access and egress from the site that will improve the situation for other users of the highway, including pedestrians and cyclists in accordance with the requirements of policy DR3. The proposal also removes the ability to park within the area to the west of the existing steps, an area that does not have good visibility or offer the ability to manoeuvre and turn to leave Villa Street in a forward gear. As such, this is another benefit of this development.
- 6.8 The provision of one space per unit is in accordance with current standards and the proposed changes offer a much improved parking and turning arrangement than currently exists for the existing 4 bedroom dwelling. It is noted that the planning permission in 2002 for the 4 / 5 bed dwelling only required the provision of one parking space. The Transportation Manager supports the proposed changes and is satisfied that the slight increase in movements that may be associated with the apartments rather than one dwelling can be accommodated, especially

having regard to the improvements proposed. It is your officers opinion that the proposed development would comply with the requirements of policies DR3 and T11 of the Unitary Development Plan.

- 6.9 The 'fall back position' is also a material consideration. Recent government legislation allows for the use of dwellings as Houses in Multiple Occupation for 3 to 6 persons without the need for planning permission. As such, it is possible that this dwelling could already, in its current form, be used in this manner and the issues of parking, manoeuvring and accessibility would not be improved, enhanced or be capable of control by way of conditions.
- 6.10 The development would be subject to a planning obligation as per the Council's Supplementary Planning Document on Planning Obligations and policy DR5 of the Unitary Development Plan. However, in response to the current economic climate, the Council has introduced a temporary suspension of the payment of planning obligations provided that the development is commenced within 12 months. This decision was ratified by Cabinet on 4 March 2009. The applicant has requested a 12 months commencement date to be attached to any approval notice as part of the planning application.
- 6.11 Objections also refer to concerns about water pressure and foul water drainage. Welsh Water have been consulted and raise no objections to this proposal subject to conditions. The site lies partially within a Flood Zone, and as such, this matter was fully considered on the granting of the original planning permission. Safe dry pedestrian access can be obtained from the side and front of the property with the Flood zone being limited to the rear, riverside location. This is not introducing a new residential use, merely a change to the format. As such, the proposal would comply with the requirements of policy DR7 of the Unitary Development Plan.
- 6.12 To conclude, the proposed development is an opportunity to provide smaller, more affordable units of accommodation within an existing residential area of Hereford City. Its siting is sustainable in location with good access to services. The proposed alterations to provide three apartments would not represent an intensification of use or change in character of the building or area that would be significant. It would be unlikely to cause harm to the amenities enjoyed by local residents or to the character of the surrounding area and as such would comply with the requirements of policies S1, DR1, DR2, H13 and H17 of the Unitary Development Plan. The key concern in relation to the increased in traffic movements, provision of safe accessible parking and conflict with other highway users have now been overcome and the proposal would comply with policies DR3 and T11 of the Unitary Development Plan. As such, the proposal is recommended for approval, subject to conditions.

## **RECOMMENDATION**

**That planning permission be granted subject to the following conditions:**

- 1. A01 Time limit for commencement (full permission)**
- 2. B01 Development in accordance with the approved plans**
- 3. The development hereby permitted shall not be brought into use until the parking provision and changes shown on the approved plan (Drawing numbers PB10D and PB11B) have been properly constructed in accordance with these details. These areas shall thereafter be retained and kept available for those uses at all times.**

**Reason: to minimise the likelihood of indiscriminate parking in the interest of highway safety and to conform with the requirements of Policies T11 and DR3 of the Herefordshire Unitary Development Plan.**

- 4. L01 Foul/surface water drainage**

---

Further information on the subject of this report is available from Ms K Gibbons on 01432 261781



- 5. L02 No surface water to connect to public system
- 6. L03 No drainage run-off to public system

**Informative:**

- 1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations. Negotiations in respect of matters of concern with the application (as originally submitted) have resulted in amendments to the proposal. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

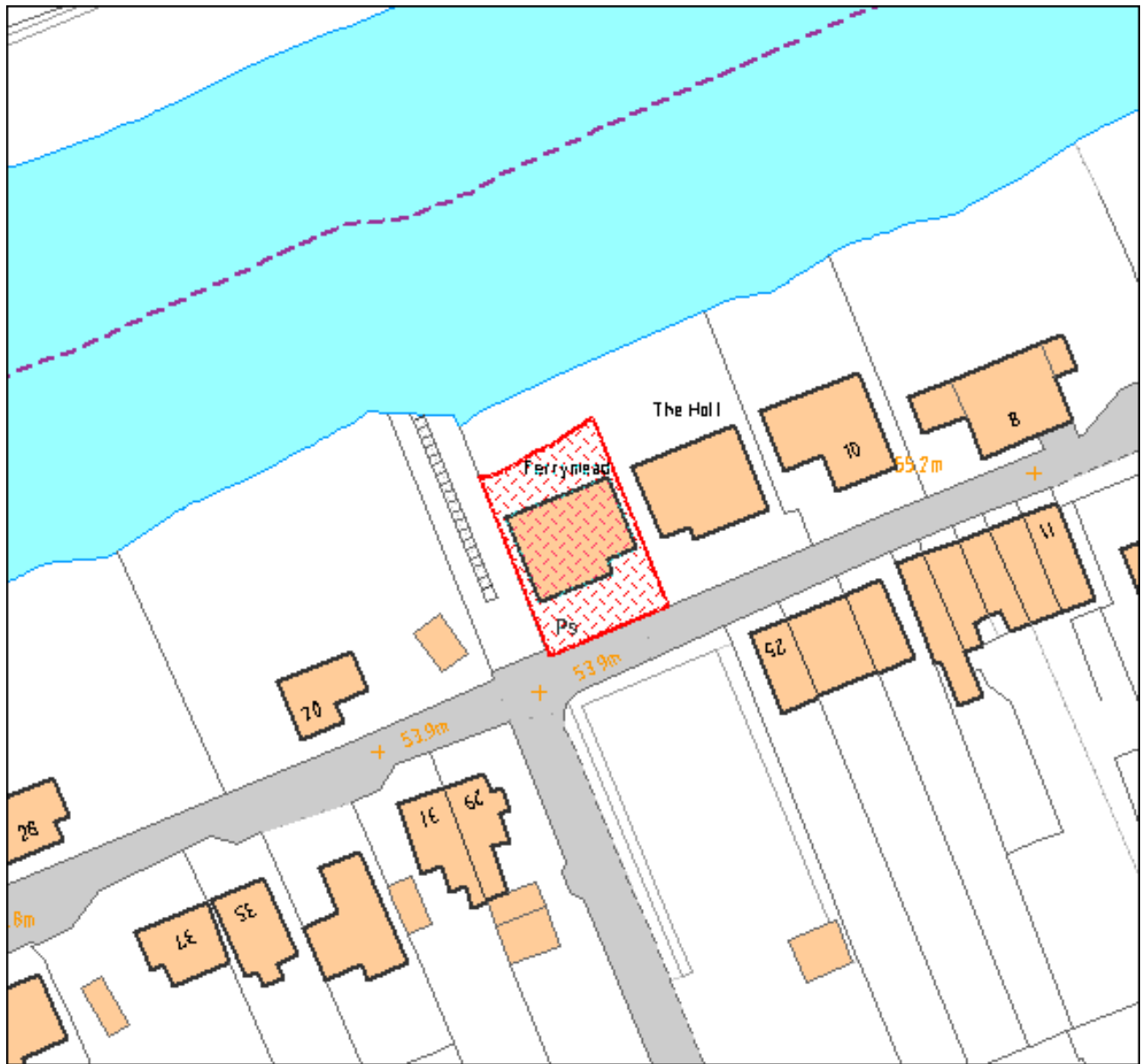
Decision: .....

Notes: .....

.....

**Background Papers**

Internal departmental consultation replies.



This copy has been produced specifically for Planning purposes. No further copies may be made.

**APPLICATION NO:** S/122524/F

**SITE ADDRESS :** FERRYMEAD, 14 VILLA STREET, HEREFORD, HR2 7AY

Based upon the Ordnance Survey mapping with the permission of the controller of Her Majesty's Stationery Office, © Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Herefordshire Council. Licence No: 100024168/2005



<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>17 JULY 2013</b>
<b>TITLE OF REPORT:</b>	<b>131292/FH - PROPOSED ALTERATIONS TO DRIVEWAY AT THE HOLT, VILLA STREET, HEREFORD, HR2 7AY</b>  <b>For: Mr Ballantyne per Mr Daniel Forrest, Court Cottage, Bartestree, Hereford, HR1 4DA</b>
<b>WEBSITE LINK:</b>	<a href="http://news.herefordshire.gov.uk/housing/planning/58286.aspx?ID=131292&amp;NoSearch=True">http://news.herefordshire.gov.uk/housing/planning/58286.aspx?ID=131292&amp;NoSearch=True</a>

**Date Received: 10 May 2013**

**Ward: Belmont**

**Grid Ref: 349903,239169**

**Expiry Date: 5 July 2013**

Local Members: Councillors A Bridges, PJ Edwards and GA Vaughan-Powell

## **1. Site Description and Proposal**

- 1.1 The application site comprises a detached three storey dwelling that is sited to the north of Villa Street and opposite the car park of The Vaga Tavern. The rear garden of the dwelling slopes down to the River Wye. The dwelling was one of a pair of dwellings approved in 2002 for two four bedroom dwellings. The dwelling has been occupied since 2003 as either a House in Multiple Occupation (HMO) or as a family dwelling.
- 1.2 Externally, an existing driveway leads to the garage, this driveway is shared with the adjoining property known as Ferrymead. The driveway currently has a steep gradient. In accordance with the planning permission each dwelling is capable of parking one car within its curtilage. However with the shared surface an additional car can be parked in a central position, straddling the boundary to the two properties.
- 1.3 The proposed alterations would comprise a tarmacked driveway, at a gradient of 1:20, and a 0.9m pathway, demarked in brick pavers southern boundary. A retaining wall is proposed in a position set back 1m from the garage, in line with the front elevation of the dwelling. The proposals have been submitted in response to changes proposed to the adjacent dwelling known as Ferrymead (Application Number S122524).

## **2. Policies**

### **2.1 National Planning Policy Framework**

Particular consideration should be given to paragraphs 7, 14. These set out the core principles of sustainable development and the need for decision takers to approve development proposals that are considered to be sustainable development where they accord with the development plan.

## 2.2 Herefordshire Unitary Development Plan:

S1	-	Sustainable Development
S6	-	Transport
DR1	-	Design
DR3	-	Movement
T11	-	Parking Provision

2.3 The Unitary Development Plan policies together with any relevant supplementary planning documentation can be viewed on the Council's website by using the following link:-

<http://www.herefordshire.gov.uk/housing/planning/29815.aspp>

## 3. Planning History

3.1 CW2000/3185/F – 2 no. four bed dwellings – Refused 3 January 2001.

3.2 CW2001/1870/F – 2 no. four bed dwellings – Approved with Conditions 12 October 2001.

3.3 CW2002/0653/F – Erect 2 no. 4 bed dwellings – Approved with Conditions 1 May 2002.

## 4. Consultation Summary

### Statutory Consultations

4.1 None

### Internal Council Advice

4.2 The Transportation Manager made the following comments:

The proposals will improve the gradient on the existing driveway and also provide more useable parking at the property. No objection to the grant of permission.

## 5. Representations

5.1 Hereford City Council has no objection.

5.2 To date 8 letters of objection and concern have been received from local residents. The comments made can be summarised as follows:

- The proposal will render the garage unusable.
- One space is unacceptable.
- If Ferrymead is approved, then this could lead to an application for The Holt to be converted.
- The two applications are linked and reliant upon each other.

5.3 To date 19 letters of support have also been received that, in addition to just general support, also make the following comments:

- Flatter drive will be an improvement as it will be much easier to manoeuvre a car.
- Pathway will be a help.

5.4 The consultation responses can be viewed on the Council's website by using the following link:-

Internet access is available at the Council's Customer Service Centres:-  
[www.herefordshire.gov.uk/government-citizens-and-rights/complaints-and-compliments/contact-details/?q=contact%20centre&type=suggestedpage](http://www.herefordshire.gov.uk/government-citizens-and-rights/complaints-and-compliments/contact-details/?q=contact%20centre&type=suggestedpage)

## 6. Officer's Appraisal

- 6.1 The key issues for consideration in the determination of this application are highway safety, pedestrian safety and the visual appearance of the proposed development.
- 6.2 This application has been submitted in response to the changes proposed to the driveway that serves Ferrymead (refer to 122525/F). Given the physical relationship between the two properties it was a logical suggestion to also consider altering the access and driveway at The Holt at the same time, improving the gradient and ultimately the ability to manoeuvre into and out of the site. The change in gradient would not require the benefit of planning permission. However, as the original planning permission removed permitted development rights to erect walls, and the proposals include the construction of a small stretch of retaining wall, planning permission is required for this proposal.
- 6.3 The proposal does not suggest the conversion of the garage, and whilst access for a vehicle would be prohibited by the proposals, its retention was not required by the original planning permission, and this could be converted to part of the dwelling without the need for planning permission at any time. It should also be noted that the original planning permission only required the provision of one parking space and that this would continue to be provided, albeit in an improved form. Therefore, the loss of this garage as a parking space would not justify the refusal of permission and would be difficult to substantiate on appeal. This proposal would comply with the requirements of policy DR3 and T11 of the Unitary Development Plan.
- 6.4 The proposed changes would not be visually intrusive or uncharacteristic of the area and are considered to comply with the requirements of policy DR1 of the Unitary Development Plan.
- 6.5 The proposed changes to the driveway at this property would complement those proposed at Ferrymead and are clearly linked to this proposal. However, they would provide measurable improvements to the current arrangements at the site, improving highway safety for vehicles, pedestrians and cyclists, without harm to the character of the area or appearance of the dwelling. As such, the proposal would comply with the requirements of policies DR1, DR3 and T11 of the Unitary Development Plan and are recommended for approval with conditions.

## RECOMMENDATION

**That planning permission be granted subject to the following conditions:**

1. **A01 Time limit for commencement (full permission)**
2. **B01 Development in accordance with the approved plans**

**Informative:**

1. **The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework**

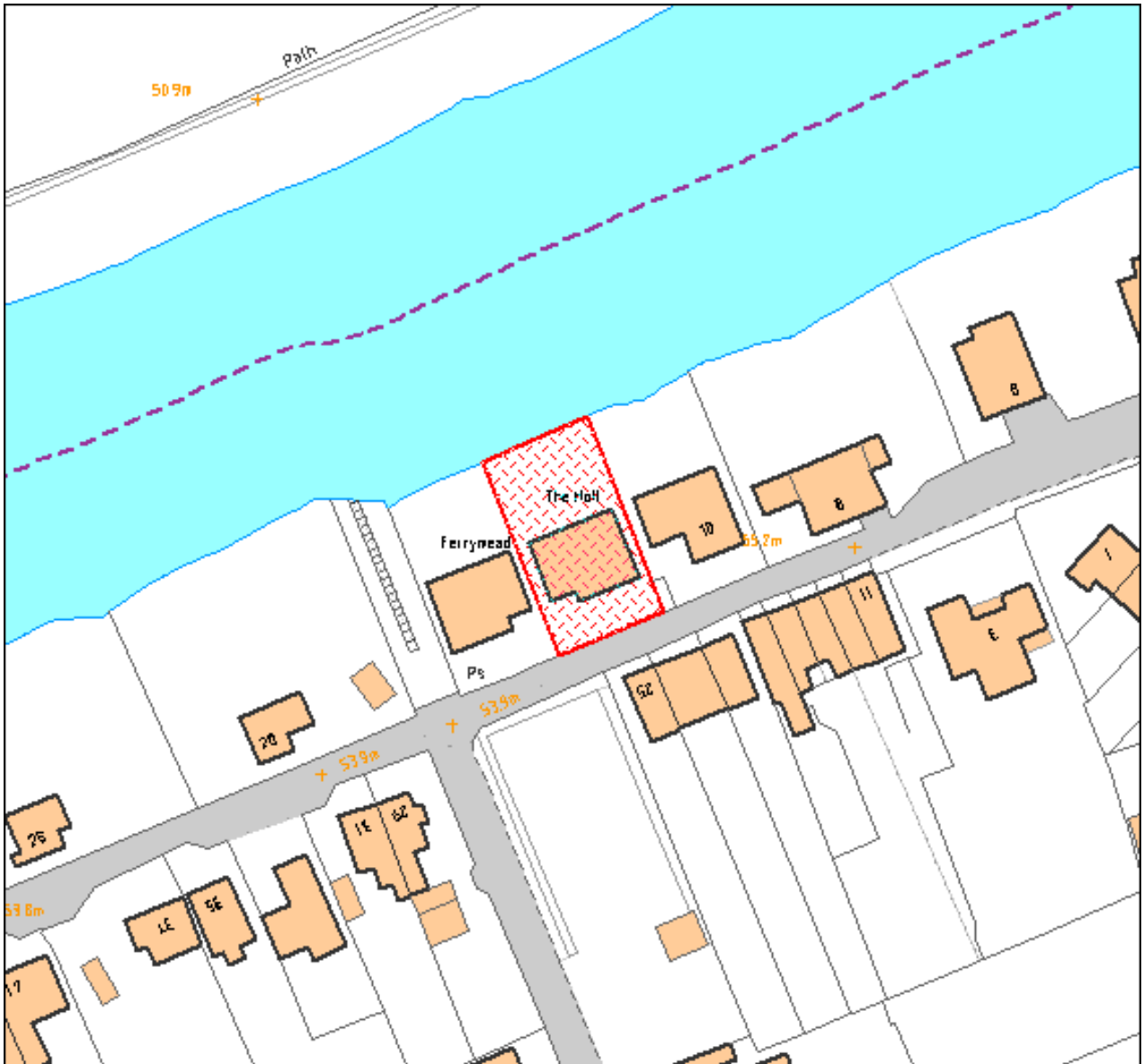
Decision: .....

Notes: .....

.....

**Background Papers**

Internal departmental consultation replies.



This copy has been produced specifically for Planning purposes. No further copies may be made.

**APPLICATION NO:** 131292/FH

**SITE ADDRESS :** THE HOLT, VILLA STREET, HEREFORD, HR2 7AY

Based upon the Ordnance Survey mapping with the permission of the controller of Her Majesty's Stationery Office, © Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Herefordshire Council. Licence No: 100024168/2005

Further information on the subject of this report is available from Ms K Gibbons on 01432 261781







<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>17 JULY 2013</b>
<b>TITLE OF REPORT:</b>	<b>130541/O - OUTLINE APPLICATION FOR 17 NO. AFFORDABLE DWELLINGS AT THE PADDOCK OFF PERRYSTONE LANE, TUPSLEY, HEREFORD</b>  <b>For: Mr Hooper, 9 Winchester Avenue, Hereford, HR1 1QJ</b>
<b>WEBSITE LINK:</b>	<a href="http://news.herefordshire.gov.uk/housing/planning/58286.aspx?ID=130541&amp;NoSearch=True">http://news.herefordshire.gov.uk/housing/planning/58286.aspx?ID=130541&amp;NoSearch=True</a>

**Date Received: 25 February 2013**

**Ward: Backbury**

**Grid Ref: 353384,240353**

**Expiry Date: 27 May 2013**

Local Members: Councillors J Hardwick, AJ Hempton-Smith, JLV Kenyon and MD Lloyd-Hayes

## 1. Site Description and Proposal

- 1.1 Outline planning permission with all matters reserved is sought for the erection of 17 affordable dwellings on land to the east of Perrystone Lane, Hereford. The site lies within the parish of Hampton Bishop, but is adjacent the Hereford City settlement boundary. The site was formerly an orchard but is now grazed; the majority of trees within the site having been removed. Mature hedgerows bound the majority of the site boundary.
- 1.2 Two-storey semi-detached dwellings on Perrystone Lane lie to the west on the opposite side of the adopted highway. Tupsley House and the adjoining Stable House are detached period properties to the immediate south fronting Ledbury Road. To the north and east the land descends to the River Lugg meadows.
- 1.3 Occupying lower-lying land to the east are Netherwood, Lawnswood and Lower House Farm; the headquarters of the Hereford Nature Trust. Land to the south-east of the site is also in the applicant's control. It is intended that this area be actively managed as a local nature area, although future management arrangements have not been finalised.
- 1.4 The indicative layout indicates that vehicular access would be taken from Perrystone Lane at the northern end of the site opposite No.22 Perrystone Lane with the northern portion of the site left undeveloped. The dwellings would be aligned on either side of the access road, which would terminate in a turning head towards the southern end of the site.
- 1.5 The application form confirms that the housing mix would comprise one, two, three and four-bed properties, and this mix has been informed by the current housing needs data for Tupsley Ward.
- 1.6 As the application is made in outline with all matters reserved there is comparatively little information as regards the scale, design, layout and external appearance of the dwellings. The application is, however, accompanied by a Landscape and Visual Impact Assessment, which concludes that the retention and enhancement of existing hedgerows on all boundaries will minimise the impact upon the landscape and views of the area.

---

Further information on the subject of this report is available from Mr E Thomas on 01432 260479

1.7 As the application is for affordable housing there are no financial contributions via a Section106 Agreement. In the event of planning permission is granted such an Agreement would be necessary to ensure that the houses remain affordable in perpetuity and that the wildlife area, put forward as compensation for the loss of biodiversity on site, is secured.

## **2. Policies**

### 2.1 National Planning Policy Framework

Chapter 6 – Delivering a wide choice of high quality homes

Chapter 7 – Requiring good design

Chapter 8 – Promoting healthy communities

Chapter 11 – Conserving and enhancing the natural environment

### 2.2 Herefordshire Unitary Development Plan 2007

S1	-	Sustainable Developments
S2	-	Development Requirements
DR1	-	Design
DR3	-	Movement
DR4	-	Environment
H1	-	Hereford and the Market owns: Settlement Boundaries and Established Residential Areas
H7	-	Housing in the Countryside Outside Settlements
H9	-	Affordable Housing
H10	-	Rural Exception Housing
H13	-	Sustainable Residential Design
H15	-	Density
H16	-	Car Parking
T11	-	Parking provision
NC6	-	Biodiversity Action Plan Priority Habitats and Species
NC7	-	Compensation for Loss of Biodiversity
NC8	-	Habitat Creation, Restoration and Enhancement

### 2.3 Supplementary Planning Guidance

Landscape Character Assessment 2004 (Updated 2009)

Biodiversity SPD

2.4 The Unitary Development Plan policies together with any relevant supplementary planning documentation can be viewed on the Council's website by using the following link:-

<http://www.herefordshire.gov.uk/housing/planning/29815.aspp>

## **3. Planning History**

3.1 S120242/O: 17 affordable dwellings: Withdrawn 8 August 2012.

3.2 There were a series of applications for single dwellings on land adjacent Tupsley House during the 1980s and early 1990s. All were refused and several were subsequently dismissed at appeal.

## **4. Consultation Summary**

- 4.1 Welsh Water: No objection subject to conditions to ensure that foul and surface water/land drainage is dealt with separately and that surface water is not allowed to connect to the public sewerage system.

#### Internal Council Advice

- 4.2 Traffic Manager: Although it is a concern that the proposed access to the existing highway is not in the applicant's control and that access is a reserved matter, Perrystone Lane is acceptable to serve the additional houses. A footway will be required on the north east side of Perrystone Lane to link the development with the existing footway outside No 27, and to the south of the access to join to the footpath link to Ledbury Road. These lengths will fall outside the red line of the application site and the applicant's ownership.

The principle of development is, however, acceptable subject to conditions. The location of the indicative access point will provide sufficient visibility in both directions, although the indicative layout does not demonstrate sufficient parking. A service strip or footway will be required around the turning head within the development.

- 4.3 Housing Needs and Development: No objection. Housing Needs and Development support the provision of affordable housing on this site and can confirm there is a significant requirement for affordable housing within the city. There are currently 4831 households registered for affordable housing within the County of Herefordshire and of that number the need for Tupsley/Hampton Bishop area is 52. Any planning permission will need to be subject to a S106 agreement to ensure that the houses are affordable in perpetuity with priority given to those with a connection to the Tupsley and Hampton Bishop areas.

- 4.4 Strategic Planning Manager: The current policy framework for consideration of this application is the Herefordshire Unitary Development Plan (UDP) and National Planning Policy Framework (NPPF). The site is located outside, but adjacent to the settlement boundary of Hereford city and therefore within open countryside in planning policy terms. As the requirements of policies H1 and H7 are not satisfied, the development is therefore contrary to UDP policies in respect of its location.

This position must, however, be considered in light of the NPPF and whether the affordable housing delivery target identified in the UDP has been fulfilled. Needs data suggests an ongoing need for affordable housing locally and within Tupsley. If the number of affordable housing units that have been delivered fall below the UDP target the development should be viewed in the context of the NPPF and the absence of a deliverable 5 year supply of housing land including a 5% buffer as required by paragraph 47 of the NPPF.

Owing to the lack of housing land supply paragraph 49 of the NPPF confirms that relevant housing supply policies of the UDP must be considered out of date. To resist sustainable housing development proposals on the basis of being contrary to policy H7 would not be defensible at appeal.

#### Conclusion

In the light of the Council's interim policy statement on housing land supply, the site may be considered appropriate for residential development depending on the requirement for affordable housing. The technical issues and any adverse impacts resulting from a proposal in this specific location need to be weighed against this.

- 4.5 Conservation Manager (Landscapes): The officer agrees with the conclusion of the submitted Landscape and Visual Impact Assessment that the site could accommodate some residential development without a significant negative impact. The officer is not, however, convinced that it is possible to fit the proposed 17 dwellings on the site in a high quality scheme that will

meet the NPPF requirements to add to the overall quality of the area, establish a strong sense of place, respond to local character and be visually attractive as a result of good architecture and appropriate landscaping. A balance should be struck between innovation, originality and initiative, while also promoting local distinctiveness.

- 4.6 Conservation Manager (Ecology): Objection: An application of this nature should be accompanied by an appropriate strategy to avoid harm to the nature conservation interests or provide adequate mitigation and compensation where harm is unavoidable. Some of the wildlife interest at the site has been damaged and I would expect an appropriate mitigation and compensation strategy to acknowledge the former as well as the current wildlife interest at the site.

It is not clear how the proposed wildlife area is to be enhanced or managed. In my opinion, this would not provide sufficient mitigation or compensation for the loss of the orchard habitat. If there is a need for an affordable housing scheme in this area of the city, I would have hoped that an alternative site could have been found. However, if alternative sites are not available and if this application is ultimately to be approved, I would expect to see a scheme that accommodated the retention of the remaining fruit trees – some of the remaining trees may be rare varieties. Also, a biodiversity off-setting scheme secured through a S106 agreement might go some way towards compensating for the loss of orchard habitat and would potentially comply with UDP Policies NC7, NC8 and NC9 as well as the NPPF.

If this application is ultimately to be approved I recommend the imposition of conditions to secure an appropriate mitigation and compensation strategy; this could be delivered off-site if it cannot be achieved on-site. I also recommend a condition to secure appropriate habitat protection and enhancement measures are accommodated on the site as well as a habitat management scheme for the proposed wildlife area; this should include protection of the hedgerows and remaining orchard trees as well as installation of bat and bird boxes on buildings and trees.

## 5. Representations

- 5.1 Hampton Bishop Parish Council: No response.
- 5.2 Hereford City Council (adjoining Parish): No objection.
- 5.3 Twenty-four letters and a one hundred and twenty-three signature petition of objection have been received from local residents. The content is summarised as follows:
- The site is a sensitive edge of city location. Development will blur the well-defined edge to the urban area;
  - Perrystone Lane is a narrow cul-de-sac not suited to the additional volume of traffic. Parked cars already present a danger to other road users and pedestrians and the proposal will exacerbate the problem;
  - The development will result in inconvenience and noise disturbance over a prolonged period;
  - The development will adversely affect privacy, amenity and outlook for the existing residents, many of whom have paid a premium to secure a tranquil setting overlooking open countryside;
  - The existing sewage infrastructure is already at capacity;
  - There must be alternative brownfield sites available?
  - The site has a history of planning refusals relating to its open countryside location;
  - The loss of ecological interest arising from the loss of orchard is not compensated for;
  - Overspill parking from Perrystone Lane already presents a problem on Ledbury Road near the brow of the hill. If adequate parking is not achieved on this site, the problem will worsen;

- The development is too dense for the site and is not needed in Tupsley;
- If there is a need for affordable housing it should not be at the expense of local residents and should be integrated more fully into existing communities for the sake of prospective and existing residents alike; not situated at the end of a cul-de-sac.

5.4 The consultation responses can be viewed on the Council's website by using the following link:-

<http://news.herefordshire.gov.uk/housing/planning/searchplanningapplications.aspx>

Internet access is available at the Council's Customer Service Centres:-

[www.herefordshire.gov.uk/government-citizens-and-rights/complaints-and-compliments/contact-details/?q=contact%20centre&type=suggestedpage](http://www.herefordshire.gov.uk/government-citizens-and-rights/complaints-and-compliments/contact-details/?q=contact%20centre&type=suggestedpage)

## 6. Officer's Appraisal

6.1 The key issues in the determination of this application are:

- The principle of the development with regard to housing land supply and the NPPF;
- The impact of the proposal upon the local landscape;
- The impact of the proposal upon the safe use of the public highway;
- The impact upon biodiversity interest.

### Principle

6.2 The scheme promotes 17 affordable dwellings on land outside but adjacent the Hereford City settlement boundary. As discussed at 4.4 the proposal is contrary to the provisions of the Unitary Development Plan in that it is not consistent with policies H7 or H10. No provision was made within the UDP for the release of sites adjacent to Hereford city as 'exceptions' sites on the basis that the demand for affordable homes would be met via the allocation of sites for housing within the settlement. However, the Council cannot currently demonstrate a 5-year supply of deliverable housing land and housing needs data provides clear evidence of an unmet and growing demand for both market and affordable homes within the county. The 4,831 households that are registered for affordable housing are those on the Homepoint waiting list.

6.3 Paragraph 47 of the NPPF refers to the need to 'boost significantly' the supply of housing by ensuring that Local Plans meet the objectively assessed need for market and affordable housing in the housing market area. Paragraph 49 states that housing application should be considered "in the context of the presumption in favour of sustainable development" and that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot, as it the case in Herefordshire, demonstrate a five-year supply of deliverable housing sites.

6.4 Although under adopted UDP policies the site is located in the open countryside it is, in the context of a lack of housing land supply, considered sustainable in locational terms. It is immediately adjacent the settlement boundary and within short walking distance of a variety of local amenities. Given the overall lack of available housing land and objectively assessed need for affordable housing locally, officers attach significant weight to this matter and consider the principle of development acceptable.

6.5 The second main issue is the assessment of the proposed development on the local landscape and visual amenity. Within the Council's Urban Fringe Sensitivity Analysis the site forms part of the larger area between Aylestone Hill and Hampton Bishop, comprising the steep slope between the edge of the city and the Lugg meadows. This area is defined as having high landscape sensitivity.

- 6.6 This acknowledged sensitivity notwithstanding, the Conservation Manager (Landscapes) concludes that the site is capable of accommodating some development without significant negative impacts. Whilst the lack of detail with the application presents concerns as regards the precise nature, scale and quality of the development, officers conclude that 17 dwellings, the majority of which will be two and three-bedroom, could be accommodated at a density of 34 dwellings per hectare. With the mitigation measures described in the submitted LVIA, which include retention and enhancement of boundary hedgerows and the omission of development from the northern part of the site (which is most prominent in middle distance views), officers conclude that the site can be developed without significant adverse impact to the landscape.

#### Landscape Impact

- 6.7 On the second main issue officers accept that development of the site will result in a change of character to the landscape, but that this change is acceptable in terms of its magnitude and the mitigation measures proposed. This slight adverse impact is not considered sufficient to justify refusal of the development against the backdrop of strong and consistent advice in the NPPF to ensure the supply of housing to meet objectively assessed need.

#### Highway Safety/Access

- 6.8 The third main issue relates to vehicular access and highway safety. The vehicular access is proposed at a point opposite No.22 Perrystone Lane, which is itself accessed via Whittern Way. The grass verge over which access would be taken is in Council ownership. The applicant has served the requisite notice on the Council as landowner but has not yet secured a right of access over the land. This would need to be addressed by the applicant, but officers conclude that planning permission could reasonably be granted subject to a negatively worded condition preventing commencement of development until such time that the access has been constructed.
- 6.9 The Traffic Manager is content that the highway is wide enough to accommodate the additional traffic generated and that visibility from the intended point of access is sufficient. Officers do not consider the formation of a pavement from the north-side of the vehicular access to be necessary having regard to the lightly trafficked nature of the locality and the ready access to existing footways on the opposite side of Perrystone Lane. Subject to conditions, officers consider that the proposal can be safely accessed without undue detriment to existing road conditions. The proposal is considered to accord with saved UDP policy DR3. Concern in relation to the lack of parking provision can be addressed via planning condition and/or at the reserved matters stage.
- 6.10 The site was formerly an orchard. Orchard still exists to the north and further to the east, where it is managed by the Hereford Nature Trust. The Council's Ecologist has expressed concern at the loss of biodiversity habitat in the form of orchard tree removal, but accepts that some compensation can be made by planting within the northern part of the site. In addition the applicant has indicated the creation of a wildlife habitat on land immediately south-east of the application site. Although formal arrangements are yet to be made for future maintenance of this land, officers consider this can be secured through a S106 Agreement.
- 6.11 UDP Policy NC6 acts to protect priority habitats and species, but does make provision for instances where the reasons for the development clearly outweigh the need to safeguard the habitat. Likewise the NPPF seeks to enhance and conserve biodiversity, but does allow for the loss of habitat where the need for the development clearly outweighs the harm. In this instance, the removal of orchard trees from the site several years ago has reduced the biodiversity interest of the site and although this interest cannot easily be replaced, there are means by which compensation can be provided. In the context of the need for affordable housing the loss of the orchard is not considered to constitute a reason for refusal.

## Other Matters

- 6.12 In the context of a history of planning refusals on the site, the concerns of long-time and recent neighbours to the site are acknowledged. Residents must have felt a reasonable degree of certainty that development on this site would be unlikely given the location in open countryside and the constant approach of the predecessor local planning authority during the 1980's and 90's. However, it is increasingly clear that housing targets will not be met without the release of land within sensitive parts of the urban fringe. The need for affordable housing has to be afforded significant weight in the determination process, particularly in the context of a shortfall in supply and that this site is available and deliverable in the immediate term.
- 6.13 Officers are satisfied that the impact upon the living conditions at neighbouring properties is acceptable. Although the loss of view is acknowledged, the impact upon the outlook from dwellings on Perrystone Lane will be mitigated by retention of the existing roadside hedge. There is also adequate room within the site to ensure that the distance between windows serving habitable rooms. Although officers acknowledge neighbours' concerns relating to living opposite a construction site, this is not a material planning consideration. It is however recommended that a planning condition be imposed restricting the hours during which construction work can take place.
- 6.14 Concerns have also been raised in relation to the capacity of the public sewer. Welsh Water recommends conditions to separate foul from surface water run-off but do not object to the development on the basis of public sewer capacity.
- 6.15 Concerns have been expressed in relation to water-logging of the site. The site is in Flood Zone 1, which is the classification least prone to fluvial flooding. A refusal on this basis could not be sustained.
- 6.16 Taking all material planning considerations into account, officers consider that the overriding consideration is the provision of affordable housing on a sustainable site in the context of an acknowledged shortfall in the supply of housing land for market and affordable housing. The application is therefore recommended for approval.

## **RECOMMENDATION**

**That subject to the completion of a Section 106 Agreement in accordance with the attached Heads of Terms, planning permission be granted subject to the following conditions:**

- 1. The development shall not commence until approval of the 'reserved matters' has been obtained from the Local Planning Authority.**

**Reason: To enable the local planning authority to exercise proper control over these aspects of the development in order to secure compliance with policies DR1 and H13 of the Herefordshire Unitary Development Plan.**

- 2. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.**

**Reason: Required to be imposed in accordance with Section 92 of the Town and Country Planning act 1990.**

- 3. The development hereby permitted shall be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the last reserved matters to be approved, whichever is the later.**

**Reason: Required to be imposed in accordance with Section 92 of the Town and Country Planning act 1990.**

4. H03 Visibility splays
5. H06 Vehicular access construction
6. H18 On site roads - submission of details
7. H20 Road completion in 2 years
8. H21 Wheel washing
9. H26 Access location
10. H27 Parking for site operatives
11. G04 Protection of trees/hedgerows that are to be retained
12. G10 Landscaping scheme
13. G11 Landscaping scheme - implementation
14. I16 Restriction of hours during construction
15. I51 Details of slab levels

**Informatives:**

1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
2. HN08 Section 38 Agreement & Drainage details
3. HN10 No drainage to discharge to highway
4. HN04 Private apparatus within highway
5. HN01 Mud on highway
6. HN15 Affected street lighting or illuminated signs
7. HN28 Highways Design Guide and Specification
8. HN05 Works within the highway

Decision: .....

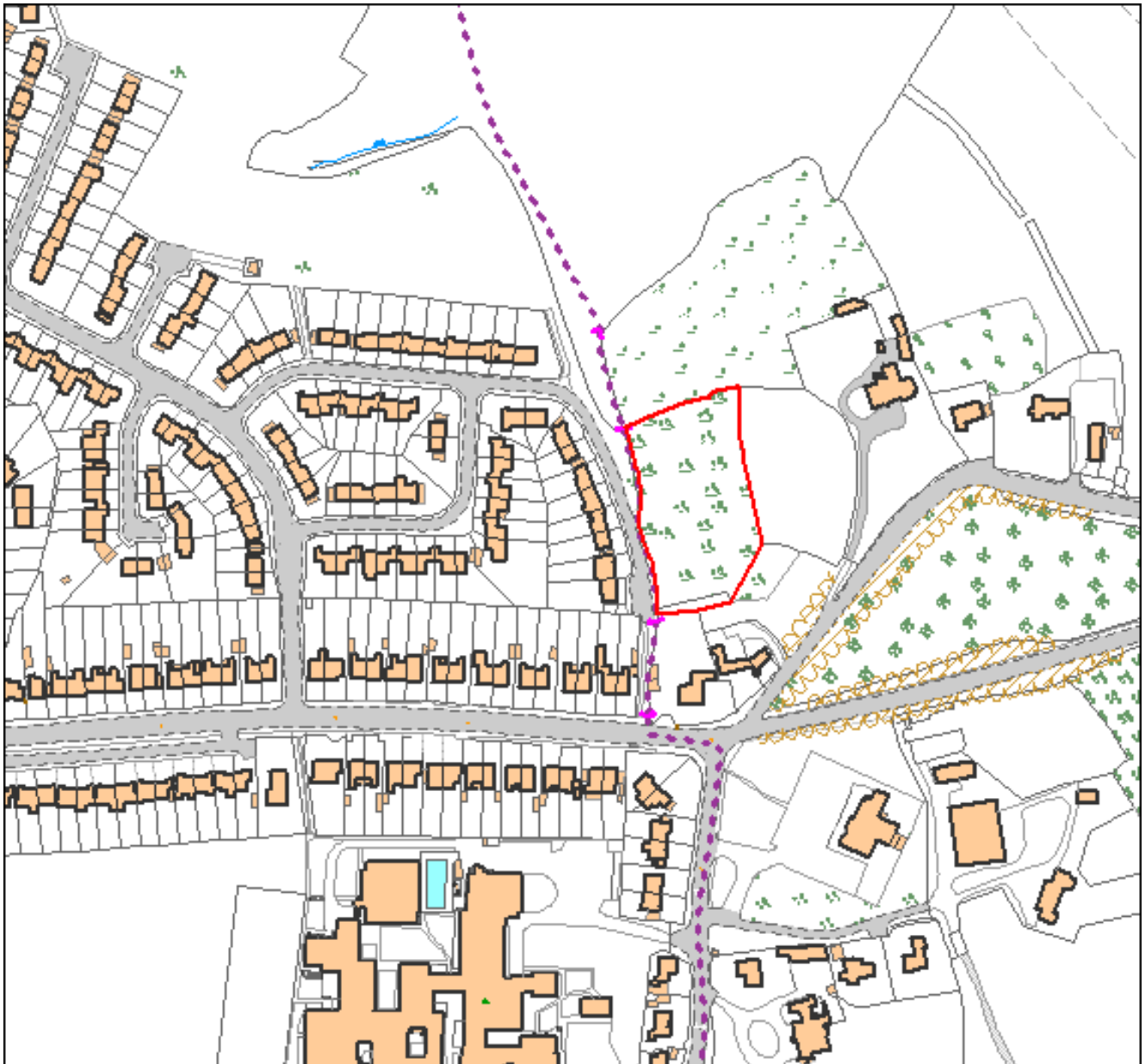
Notes: .....

.....

**Background Papers**

Internal departmental consultation replies.





is copy has been produced specifically for Planning purposes. No further copies may be made.

**APPLICATION NO:** 130541/O

**SITE ADDRESS :** THE PADDOCK OFF PERRYSTONE LANE, TUPSLEY, HEREFORD

Based upon the Ordnance Survey mapping with the permission of the controller of Her Majesty's Stationery Office, © Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Herefordshire Council. Licence No: 100024168/2005

Further information on the subject of this report is available from Mr E Thomas on 01432 260479

# HEADS OF TERMS PROPOSED PLANNING OBLIGATION AGREEMENT

## Section 106 Town and Country Planning Act 1990

Planning Application – DMS130541/O

This Heads of Terms has been assessed against the adopted Supplementary Planning Document on Planning Obligations dated 1 April 2008

Construction of 17 affordable dwellings land at Perrystone Lane, Tupsley, Hereford

1. The developer covenants with Herefordshire Council to maintain and enhance the biodiversity interest of the site through the management of the undeveloped land edged in blue on the submitted layout plan the interests of nature conservation. The nature conservation plan shall ensure the land is managed in the interests of nature conservation and not used as garden or informal recreation space.
2. The developer covenants with Herefordshire Council that no dwelling erected on the Land will from the date hereof be occupied by anyone otherwise then strictly in accordance with the provision set out below:-
  - All dwellings erected or to be erected on the Land shall at all times be let and managed by a Registered Housing Association in accordance with guidance issued from time to time by the Homes and Communities Agency (or any other successor agency) with the intention that the affordable housing units shall not be used for any other purpose other than the provision of affordable rent and shared ownership.
  - Each dwelling shall be allocated to a person who is considered by the Registered Housing Association to be in need of such accommodation, registered with Home Point (or any successor agency) and has a strong local connection with

Firstly: The parish of Hampton Bishop or the Hereford City Ward of Tupsley  
Secondly: The surrounding parishes of Hereford City, Lugwardine, Mordiford or Holme Lacy  
Thirdly: Anywhere else in Herefordshire

- References in this schedule to a person having a strong local connection with the said parishes and areas are having a connection with the parish because:
    - a) the individual is, or in the past was, normally resident in that parish and that residence is or was of his own choice;
    - b) because the individual is employed in that parish;
    - c) because of family association; or
    - d) because of special circumstances
3. The developer shall pay the Council on the completion of the Agreement, the reasonable legal cost incurred by Herefordshire Council in connection with preparation and completion of the Agreement.
  4. The developer covenants with Herefordshire Council to pay Herefordshire Council an additional administration charge of 2% of the total contributions detailed in this Heads of Terms to be used toward the cost of monitoring and enforcing the Section 106 Agreement.

Ed Thomas – Principal Planning Officer  
July 2013

---

Further information on the subject of this report is available from Mr E Thomas on 01432 260479



<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>17 JULY 2013</b>
<b>TITLE OF REPORT:</b>	<p><b>131071/F - PART RETROSPECTIVE CHANGE OF USE OF REARING OF GAME BIRDS, COLD STORAGE OF ASSOCIATED EQUIPMENT, STORAGE OF ANIMAL FEEDS AND AGRICULTURAL CHEMICALS, SEED AND FERTILISER, INCLUDING THE ERECTION OF 2 FEED SILOS AT LAND AT LEYS FARM, TARRINGTON, HEREFORD, HR1 4EX</b></p> <p><b>For: Mr Coleman per Mr Alexander Clive, 8A High Street, Ledbury, Herefordshire, HR8 1DS</b></p>
<b>WEBSITE LINK:</b>	<a href="http://news.herefordshire.gov.uk/housing/planning/58286.aspx?ID=131071&amp;NoSearch=True">http://news.herefordshire.gov.uk/housing/planning/58286.aspx?ID=131071&amp;NoSearch=True</a>

**Date Received: 18 April 2013**

**Ward: Backbury**

**Grid Ref: 361280,240589**

**Expiry Date: 13 June 2013**

Local Member: Councillor J Hardwick

## 1. Site Description and Proposal

- 1.1 The application site lies just off the unclassified 66209 road adjacent to a range of converted traditional farm buildings, at Leys Farm. The building is approximately 30m x 30m and within the yard area two feed silos have been erected. The building is used in connection with pheasant rearing, and includes a chick nursery unit and chiller store. The change use and associated development applied for has now been undertaken and as such the application is retrospective
- 1.2 The southern and eastern range of buildings, to the east of the site are listed buildings.

## 2. Policies

### 2.1 National Planning Policy Framework NPPF

Chapter 3 Supporting a prosperous rural economy  
 Chapter 11 Conserving and enhancing the natural environment  
 Chapter 12 Conserving and enhancing the historic environment  
 Paragraphs 121-123

### 2.2 Herefordshire Unitary Development Plan

- S1 - Sustainable development  
 S2 - Development requirements  
 DR1 - Design

---

Further information on the subject of this report is available from Mr M Tansley on 01432 261815

DR2	-	Land use and activity
DR3	-	Movement
DR4	-	Environment
DR13	-	Noise
LA2	-	Landscape character
HBA4	-	Setting of listed buildings
HBA12	-	Re-use of rural buildings
E13	-	Agricultural and forestry development

2.3 The Unitary Development Plan policies together with any relevant supplementary planning documentation can be viewed on the Council's website by using the following link:

<http://www.herefordshire.gov.uk/housing/planning/29815.aspp>

### 3. Planning History

3.1 DCCE2007/3205/F Use of two mobile homes within the building as staff rest rooms Approved

### 4. Consultation Summary

4.1 Transportation Manager - no objection.

This is for an alternative use of existing farm buildings with a use which is unlikely to be more intensive than an agricultural usage and is also effective over only part of the year. It will be accessed by similar size vehicles to those that would be likely to access a farm.

4.2 Environmental Health and Trading Standards- no objection.

### 5. Representations

5.1 Tarrington Parish Council - supports the comments of local residents in objecting to this application on the grounds of the scale of the proposals and the impact on the local community. There are serious concerns about environmental health issues and the proximity to residential properties. The Parish Council feels that it should be possible to locate this activity on a site which does not impact on residential properties.

5.2 Objections from 8 local residents has been received.

These set out the following concerns, although 2 express no objection in principle subject to concerns being addressed.

1. Vermin and use of poison to control it;
2. Chemicals stored in the building;
3. Noise from the chiller unit and power washer;
4. Dust including faecal matter;
5. Smell;
6. Condition of road due to large farm vehicles;
7. Run off from cleaning;
8. Escapees;
9. No permission for units in fields.

5.3 In support of the application and in answer to the concerns expressed the applicant has provided details of how the site is used during the year:

January:

The game larder chiller, sitting within the building, is used for the storage of game which is collected on a twice weekly basis. It has a very quiet electric motor, inaudible to anyone outside of the building. It has been working in its current position for the past 7 years without issue. The yard at the front of the building will be used twice daily to access the grain silos for feeding purposes by ATV machines.

February:

During this month the building is used for general storage of game rearing and agricultural equipment. The chiller is not used in this month and neither are the grain silos.

March:

During this month the building is used for general storage of game rearing and agricultural equipment. The chiller is not used in this month and neither are the grain silos.

April:

During this month the game rearing equipment is progressively removed from the building to be assembled in the rearing field. The chiller is not used in this month and neither are the grain silos. There will be an element of cleaning and preparation work, which will be carried out predominantly in the yard area.

May:

The chick nursery unit is in operation from the end of this month onwards. The nursery unit comprises temporary rearing structures within the building, which house game chicks for a period of two to three weeks before they are moved to the brooder sheds on the rearing fields. The sheds provide a sheltered, controlled environment for the initial start period of the birds' life. The buildings are then sterilised and another crop of birds are put through the system. The feed for these birds is stored in the grain silos to prevent any infestation by rodents etc. The chiller is not used in this month.

June:

During this month the chick nursery unit continues to be in operation inside the building. The buildings are sterilised after each crop of birds. The feed for these birds continues to be stored within the grain silos so as to prevent any infestation by rodents etc. The chiller is not used in this month. The building would also be used this month for the storage of agricultural products for the purpose of planting game crops ie. seed, agri-chemicals etc.

July:

During this month the chick nursery unit continues to operate within the building. The units continue to be sterilised between batches. The feed for these birds continues to be stored in the grain silos so as to prevent any infestation by rodents etc. The chiller is not used in this month.

August:

During this month the building is not used intensively at all after the first week. All areas are cleared, tidied and cleaned in preparation for the storage of the game rearing equipment the following month. The chiller unit is not used during this month. The feed silos are used for the purpose of feeding the birds on the rearing fields.

September:

During this month the equipment in the rearing fields is returned to the building for storage. The chiller unit is not used. The feed silos are used for the purpose of feeding the birds that have been released on the estate.

October:

During this month the building is used for general storage of game rearing and agricultural equipment. The chiller is only used in for the last few days of the month.

November:

During this month the building is used for general storage of game rearing and agricultural equipment. The chiller is used this month as per January and the grain silos are used for the purpose of feeding the birds that have been released on the estate.

December:

During this month the building is used for general storage of game rearing and agricultural equipment. The chiller is used this month as per January and the grain silos are used for the purpose of feeding the birds that have been released on the estate.

In addition to the above I feel it is important that I clarify the following:

Vehicular Access – We would not be significantly increasing the amount of traffic to the site. During the period of May – July we would expect a feed delivery every 2 / 3 weeks and during the rest of the year a fuel delivery every 6 / 8 weeks. We do have the occasional sundry item delivered via courier but certainly no more frequent than domestic use.

Vermin – When we first took on the Leys Farm tenancy, there were a significant number of rats due to the poor previous housekeeping to the building and the surrounding area. We have significantly reduced the rodent numbers and monitor this on a daily basis. The majority of all food is to be kept in feed silos thus preventing attack by rodents. The presence of rodents would seriously compromise our work here, so control of rodents will be strictly maintained at all times.

Aromas – There will be no increase in smell above normal agricultural practice. In fact smell will be significantly less than previously due to the reduced use of the building.

Drainage – There appear to be concerns over additional loading to the drainage which is not the case. Surface run off issues are completely separate to the building which has its own drainage system piped away from the area. Since taking on the tenancy we have cleaned all of the drainage system and will continue to maintain it fully.”

- 5.4 The consultation responses can be viewed on the Council’s website by using the following link:-

<http://news.herefordshire.gov.uk/housing/planning/searchplanningapplications.aspx>

Internet access is available at the Council’s Customer Service Centres:-

[www.herefordshire.gov.uk/government-citizens-and-rights/complaints-and-compliments/contact-details/?q=contact%20centre&type=suggestedpage](http://www.herefordshire.gov.uk/government-citizens-and-rights/complaints-and-compliments/contact-details/?q=contact%20centre&type=suggestedpage)

## **6. Officer’s Appraisal**

- 6.1 Given that the proposal relates to the use of an existing modern farm building and that the feed silos are to the west of it, it is not considered that the proposal has any adverse impact upon the setting of the listed buildings or on the character and appearance of the wider landscape. Consequently it is considered that the requirements of policies LA2 and HBA4 of the Herefordshire Unitary Development Plan and the guidance provided by the NPPF.
- 6.2 It is clear from the responses received from local residents that the main concerns relate not just to the activity in the building, but also the use of brooder pens in the fields adjacent to the site. These buildings are temporary structures and since there is no material change of use associated with their use, these structures do not require planning permission. Additionally the

use of land for the raising of livestock is not development. Therefore it is necessary to restrict consideration of this proposal to concerns relating to the activities within the site/building.

- 6.3 During my most recent site visit, when chicks were present within the building, there was no noise discernible to the rear of the building where the neighbouring dwellings lie. Neither was there any smell detectable. It is also the case that the Head of Environmental Health and Trading Standards has confirmed that there is no objection to the proposal. Having regard to this issue, it is not considered that there are reasonable grounds for refusal on the effect of the use upon the residential amenity of neighbouring occupiers. Accordingly, it is considered that the requirements of Policies DR2, DR13, HBA12 and E13 of the Herefordshire Unitary Development Plan are satisfied and that the proposal is in accordance with guidance provided by the NPPF.
- 6.4 The Transportation Manager has no objection to the proposal. It is considered that the proposal is compliant with Policy DR3 of the Herefordshire Unitary Development Plan.
- 6.5 It is therefore considered that, subject to appropriate conditions, the application complies with the aforementioned policies of the Herefordshire Unitary Development Plan and the National Planning Policy Framework.

**RECOMMENDATION**

**That planning permission be granted subject to the following condition:**

- 1. **No cleaning of equipment or housing involving the use of a pressure washer(s) shall take place outside of the hours of 0800 hours to 1800 hours, Monday - Saturday and not at all on Sundays or Bank Holidays.**

**Reason:** In order to protect the amenity of nearby residents to ensure continued compliance with policies DR2, DR13, HBA12 and E13 of the Herefordshire Unitary Development Plan.

**INFORMATIVE:**

- 1. **The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.**

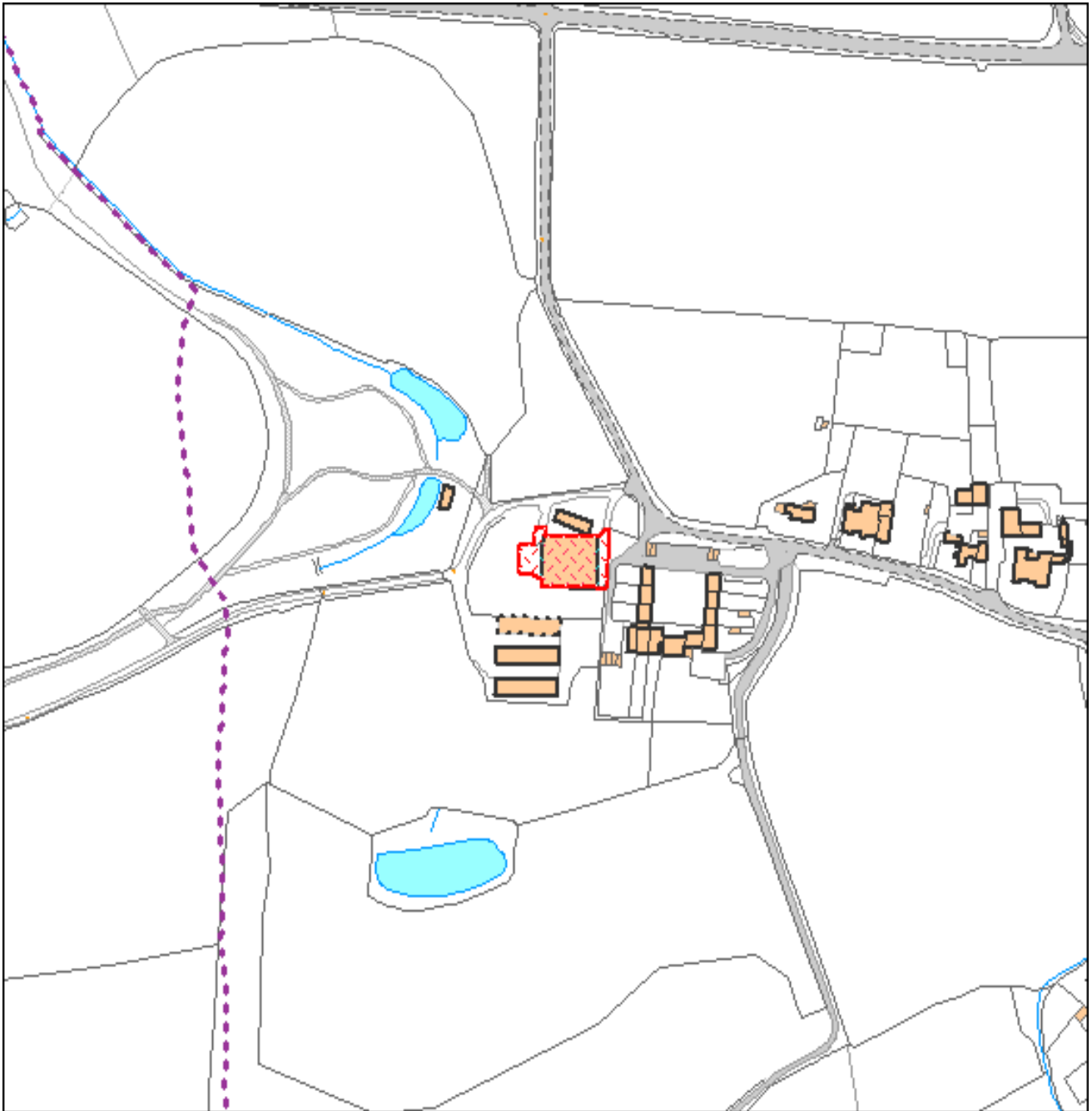
Decision: .....

Notes: .....

.....

**Background Papers**

Internal departmental consultation replies.



This copy has been produced specifically for Planning purposes. No further copies may be made.

**APPLICATION NO:** /131071/F

**SITE ADDRESS :** LAND AT LEYS FARM, TARRINGTON, HEREFORD, HEREFORDSHIRE, HR1 4EX

Based upon the Ordnance Survey mapping with the permission of the controller of Her Majesty's Stationery Office, © Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Herefordshire Council. Licence No: 100024168/2005

Further information on the subject of this report is available from Mr M Tansley on 01432 261815