

# AGENDA

## Planning Committee

Date: **Wednesday 4 June 2014**

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Time: **10.00 am**

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

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Notes: Please note the **time, date** and **venue** of the meeting, road works on Hafod Road and car parking advice.

For any further information please contact:

**Tim Brown, Democratic Services Officer**

Tel: 01432 260239

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

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If you would like help to understand this document, or would like it in another format or language, please call Tim Brown, Democratic Services Officer on 01432 260239 or e-mail [tbrown@herefordshire.gov.uk](mailto:tbrown@herefordshire.gov.uk) in advance of the meeting.

# Agenda for the Meeting of the Planning Committee

## Membership

**Chairman**

**Councillor PGH Cutter**

**Vice-Chairman**

**Councillor PA Andrews**

**Councillor AJM Blackshaw**

**Councillor AN Bridges**

**Councillor EMK Chave**

**Councillor BA Durkin**

**Councillor PJ Edwards**

**Councillor DW Greenow**

**Councillor KS Guthrie**

**Councillor J Hardwick**

**Councillor JW Hope MBE**

**Councillor MAF Hubbard**

**Councillor Brig P Jones CBE**

**Councillor JG Lester**

**Councillor RI Matthews**

**Councillor RL Mayo**

**Councillor FM Norman**

**Councillor J Norris**

**Councillor GR Swinford**

**Councillor DB Wilcox**

## AGENDA

### VISITING BROCKINGTON - ROAD WORKS AND POLICE REQUEST - CAR PARKING

#### ROAD WORKS

Please note that road works are underway in Hafod Road. This could have an effect on your journey time.

#### PARKING

There is a pay and display car park at Brockington.

However, please note that if this is full the police have requested that anyone seeking to park in the vicinity of Brockington parks with consideration for the local residents and does not obstruct a driveway, the footpath or the highway.

Please avoid parking on Hafod Road itself.

#### 1. APOLOGIES FOR ABSENCE

To receive apologies for absence.

#### 2. NAMED SUBSTITUTES (IF ANY)

To receive details of any Member nominated to attend the meeting in place of a Member of the Committee.

#### 3. DECLARATIONS OF INTEREST

To receive any declarations of interest by Members in respect of items on the Agenda.

#### 4. MINUTES

To approve and sign the Minutes of the meeting held on 14 May 2014.

#### 5. CHAIRMAN'S ANNOUNCEMENTS

To receive any announcements from the Chairman.

#### 6. APPEALS

To be noted.

#### 7. P140844/O LAND AT THE SUN INN, OFF THE A438, WINFORTON, HEREFORDSHIRE

Proposed erection of 3 no. three bedroom detached dwellings and 2 no. two bedroom semi-detached Dwellings.

#### 8. P140495/F LAND ADJACENT TO 7 MILVERN CLOSE, BROMYARD, HEREFORDSHIRE, HR7 4UH

Development of one dwelling with off street parking.

### Pages

7 - 16

17 - 18

19 - 28

29 - 34

9. **P140116/F LAND ADJACENT TO RECTORY GATE, STOKE PRIOR, HEREFORDSHIRE** | 35 - 42

New dwelling.

10. **DATE OF NEXT MEETING**

Date of next site inspection – 24 June 2014

Date of next meeting – 25 June 2014

## **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.

HEREFORDSHIRE COUNCIL

**MINUTES of the meeting of Planning Committee held at The Council Chamber, Brockington, 35 Hafod Road, Hereford on Wednesday 14 May 2014 at 10.00 am**

**Present:** Councillor PGH Cutter (Chairman)  
Councillor BA Durkin (Vice Chairman)

Councillors: PA Andrews, AN Bridges, EMK Chave, PJ Edwards, KS Guthrie, J Hardwick, JW Hope MBE, JA Hyde, Brig P Jones CBE, RI Matthews, FM Norman, J Norris, AJW Powers, GR Swinford and DB Wilcox

**In attendance:** Councillors AJM Blackshaw, MJK Cooper and SJ Robertson

**Councillor RC Hunt and PJ Watts**

The Chairman paid tribute to Councillor RC Hunt and PJ Watts who had both recently died and offered condolences on behalf of the Committee to their families. The Committee observed a silence in their memory.

**183. APOLOGIES FOR ABSENCE**

Apologies were received from Councillor DW Greenow, MAF Hubbard and JG Lester.

**184. NAMED SUBSTITUTES**

In accordance with paragraph 4.1.23 of the Council's Constitution, Councillor JA Hyde attended the meeting as a substitute member for Councillor JG Lester and Councillor AJW Powers substituted for Councillor MAF Hubbard.

**185. DECLARATIONS OF INTEREST**

**Agenda item 7: 131529/F Land adjacent to Tadpole Cottage, Eardisland, Leominster, Herefordshire**

Councillor FM Norman commented that she knew the applicant and some objectors and declared a non-pecuniary interest as one of the Council's appointments to the Lugg Internal Drainage Board.

Councillor JW Hope MBE declared a non-pecuniary interest as one of the Council's appointments to the Lugg Internal Drainage Board.

Councillor J Hardwick declared a non-pecuniary interest as one of the Council's appointments to the Lugg Internal Drainage Board.

**Agenda item 9: 140290/0 Land adjacent to Barberrry House, The Row, Wellington, Herefordshire**

Councillor KS Guthrie commented that she was a work colleague of the applicant and declared a non-pecuniary interest as a resident of Wellington, although she emphasised that she did not live near the application site.

Mr M Willimont (Head of Development and Environmental Health) declared a non-pecuniary interest as a resident of Wellington and left the meeting for the duration of the item.

**186. MINUTES**

**RESOLVED: That the Minutes of the meeting held on 23 April 2014 be approved as a correct record and signed by the Chairman.**

**187. CHAIRMAN'S ANNOUNCEMENTS**

There were no announcements.

**188. APPEALS**

The Planning Committee noted the report.

**189. 131529/F LAND ADJACENT TO TADPOLE COTTAGE, EARDISLAND, LEOMINSTER, HEREFORDSHIRE, HR6 9AR**

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, as appended to these Minutes. The update included an additional proposed condition. The Principal Planning Officer added that if the Committee was minded to approve the application it was also proposed that permitted development rights be removed.

In accordance with the criteria for public speaking, Mr A Sheffield of Eardisland Parish Council spoke in broad support of the Scheme. Mrs C Aldred, a resident, spoke in objection. Mrs M Albright, 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, spoke on the application.

He commented on a number of issues including:

- He noted that the Parish Council supported the application subject to conditions being met. However, a number of local residents were concerned about the proposal. The principal concern was that the development would exacerbate flooding problems experienced in the area. There was evidence that the site had flooded and the Environment Agency had not taken account of this. The numerous drafts of the report indicated a level of uncertainty about the scheme and the published report was inconclusive and did not provide categorical assurances to discount the potential flood risk. In his view the flood risk assessment should be discounted. Whilst the proposed building might itself be above flood waters, the technical assessments could not prove that water would not be displaced to the detriment of neighbouring properties.
- He suggested that if the Committee was not minded to refuse the application a deferral should be considered to allow further consideration of the technical aspects of the scheme. If the Committee was minded to approve the application stronger conditions were required.

The debate opened and the following principal points were made:

- In response to questions the Principal Planning Officer commented that the site was not classified as an isolated dwelling because it was immediately adjacent to the village and the settlement boundary. Paragraph 55 of the National Planning Policy



Framework (NPPF) did not therefore apply. He considered that the proposal would help to sustain and grow an existing local business in accordance with paragraph 28 of the NPPF.

- He added that the technical advice from the Environment Agency was clear. The Agency did not object to the proposal, did not consider that the scheme would cause further flooding and in fact concluded that the scheme would provide flood betterment. The Agency had also taken the unusual step of having its advice independently reviewed.
- Technical advice was that the proposed biodisc system was acceptable. Its resilience if there were to be flooding was questioned.
- The risk of flooding and the displacement of floodwater was a concern. There appeared to be some contradiction in the report with the suggestion that the site would not flood sitting alongside a requirement for a flood evacuation plan. Paragraph 6.15 of the report stated that significant parts of the application site and the village were prone to flood events. It was noted in reply that the evacuation plan was proposed to address a circumstance where the development was cut off by floodwater; it was not being suggested that the dwelling itself would flood. The precise location of the property itself was outside the flood zone. The flooding was mainly fluvial and the property would not form a barrier to the dispersal of floodwater.
- It was noted that the proposed condition 10 required the access road to be constructed in accordance with existing ground levels.
- The attributes of the scheme were noted.
- It was considered that deferring a decision would be of little benefit as officers considered all avenues had been adequately explored.
- The Development Manager reminded the Committee of the outcome of a recent appeal for an application at land off Breinton Lee, Kings Acre Road, Hereford where the inspector had given weight to the advice of the statutory consultees on drainage issues and awarded costs against the Council.

The local ward member was given the opportunity to close the debate. He reiterated his concerns about flooding.

A number of grounds for refusal were put forward by Members, including concerns about the effectiveness of the flood plan and the biodisc system, development in the open countryside contrary to policy H7, and paragraph 100 of the NPPF relating to controlling inappropriate development in an area at risk of flooding.

The Development Manager commented that if the Committee wished to refuse the application, policy DR7 (flood risk) should be advanced as a ground for refusal and not the equivalent policy in the emerging Core Strategy. However, Members appeared to be basing a proposal for refusal solely on a technical ground. It had not been suggested in the debate that there was anything inherently unsustainable about the design of the scheme or its locational impact. He expressed concern about the Authority's ability to defend an appeal on flood grounds.

A motion that the application be refused was lost after the Chairman exercised his casting vote, stating that in doing so he was taking particular account of the Development Manager's advice.

A proposal was made that authority should be delegated to officers to approve the application, but that there should be consultation with the Chairman and the local ward member over flood risk assumptions and the operation of biodisc systems in flood events and amended conditions attached as necessary.

**RESOLVED:** That authority be delegated to officers named in the scheme of delegation to officers after consultation with the Chairman and local ward member to approve the application, subject to further clarification in respect of flood risk assumptions and the operation of biodisc systems in flood events and attach amended conditions to those listed below as may be necessary.

1. The development hereby permitted shall be begun before the expiration of one year from the date of this permission

**Reason:** To comply with the provisions of Section 91(1) (b) of the Town and Country Planning Act 1990 (as amended) and to reflect the decision of the Local Planning Authority on 4th March 2009 to suspend (effective from 1st April 2009) the requirements of the Authority's 'Planning Obligations' Supplementary Planning Document (February 2008) in relation to residential developments of five dwellings or less

2. B01 – Development in accordance with approved plans
3. C01 – Sample of external materials
4. G10 – Landscaping scheme
5. G11 – Landscaping scheme - implementation
6. G14 – Landscape management plan
7. H03 – Visibility splays
8. H05 – Access gates
9. Floor levels shall be set at a level of at least 85.50m AOD as outlined in the FRA produced by Hydrologic (Report Ref: K0394/1\_Rev 0, Sept 2013).

**Reason:** To protect the development from flooding and to comply with Policy DR7 of the Herefordshire Unitary Development Plan and Paragraphs 100 to 103 of the National Planning Policy Framework.

10. The access road hereby permitted shall be constructed in accordance with existing ground levels and shall remain at this level in perpetuity.

**Reason:** To ensure that there will be no increased risk of flooding to land or property due to impedance of flood flows and/or reduction of flood storage capacity and to comply with Policy DR7 of the Herefordshire Unitary Development Plan and Paragraphs 100 to 103 of the National Planning Policy Framework.

11. I55 – Site waste management plan
12. M03 – Compensatory flood storage works

**13. M05 – No storage of materials in 1% floodplain plus climate change**

**14** Prior to the occupation of the development, an Evacuation Management Plan shall be submitted to and approved in writing by the local planning authority in consultation with the local authority's Emergency Planning Officer. The plan shall include a map of both primary and secondary access routes along with guidelines for the maintenance of markers that should be visible under all flooding conditions. It shall also include details of the permanent retention of the plan at the property and a timetable for its revision. The approved measures shall be retained in perpetuity.

Reason: To minimise flood related danger to people in the flood risk area and to comply with Policy DR7 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework

**15** Permitted Development Rights shall be removed.

**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. HN04 – Private apparatus within the highway**

**3. HN28 – Highway design guide and specification**

**4. HN05 – Works with the highway**

*(The meeting adjourned between 11.25 am and 11.35 am)*

**190. 133504/F LAND WEST OF A4110, KNAPTON GREEN, HEREFORDSHIRE, HR4 8EP**

The Senior 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, as appended to these Minutes.

In accordance with the criteria for public speaking, Ms H Philpotts, Clerk to Burghill Parish Council spoke in opposition to the Scheme. Mr T Bromley, a resident, spoke in objection. Mr J Verdin, the applicant, spoke in support.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor AJM Blackshaw, the local ward member, spoke on the application.

He commented on a number of issues including:

- Agriculture was important to the County but farmers had to work with neighbours.

- The scheme was sustainable providing produce for Cargill based in the County, reducing food miles and ensuring food traceability..
- He highlighted the representations and the internal council advice set out in the report.
- He noted that a sequential site selection test had concluded that the proposed site was the most suitable as referred to at paragraph 6.3 of the report.
- Mitigation measures were set out at paragraph 6.5 of the report and the applicant had indicated he would invest further in these if required.
- The access was considered acceptable.
- The report stated at paragraph 6.21 that the development complied with relevant policies. He supported the recommendation for approval.

The Chairman also permitted Councillor SJ Robertson, an adjoining ward member, to speak. She outlined concerns about road safety on the A4110. She also commented on the smell and noise that would be associated with the development and noted that there were fifty letters of objection.

The debate opened and the following principal points were made:

- Some concern was expressed about the nature of the development and its impact. However, it was also noted that whilst the development would have an impact the applicant had taken all possible steps to seek to mitigate it.
- The site was separated from dwellings by at least 400m.
- Paragraph 6.3 of the report stated that the sequential site selection test had concluded that the proposed site was the most suitable.
- It was requested that mature trees be used in any relevant landscaping work.
- Concerns were raised about the cumulative impact of HGV movements and the apparent lack of information on this within the supporting documents and the report.
- A view was expressed that road safety problems were not necessarily related to HGVs but also to car users.
- In response to a question, the Development Manager advised that the decision to move away from potato production and into poultry whilst clearly impacting upon HGV movements was a commercial decision and not one that could be controlled by means of a condition.

The local ward member was given the opportunity to close the debate. He reiterated his earlier comments.

**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. **C09 Details of cladding (agricultural and industrial buildings)**
4. **I32 Details of floodlighting/external lighting**
5. **G02 Retention of trees and hedgerows**

6. **G10 Landscaping scheme**
7. **G11 Landscaping scheme - implementation**
8. **G14 Landscape management plan**
9. **I55 Site Waste Management**
10. **All manure moved off site will be so in covered and sealed trailers.  
Reason: In consideration of the amenity of the surrounding area and to comply with Policy DR4 of the Herefordshire Unitary Development Plan.**
11. **The recommendations set out in Section 7.6.7 of the Wold Ecology ecologist's report dated November 2013 must be followed in relation to the identified protected species. Prior to commencement of the development, an ecological assessment for great crested newt will be carried out. If great crested newts (or any other protected species) are identified a full working method statement must be submitted to and be approved in writing by the local planning authority, and the work shall be implemented as approved. An appropriately qualified and experienced ecological clerk of works must be appointed (or consultant engaged in that capacity) to oversee the ecological mitigation work.  
  
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, NC7 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.**
12. **Prior to commencement of the development, a habitat protection and enhancement scheme must be submitted to and be approved in writing by the local planning authority, and the scheme 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 NC7, 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.**
13. **Prior to any development on site full details of the required "Give Way" markings/signage to be located at least 5 metres back from the back edge of the adjoining carriageway, together with a timescale for its installation shall be submitted to and approved in writing by the Local Planning Authority. The approved markings/signage shall be provided prior to the first use of the development hereby approved and shall be maintained in perpetuity.  
Reason: In consideration of the location for the proposed development, and a nearby roadside verge mature tree and to comply**

with Policy DR3 of the Herefordshire Unitary Development Plan.

14. L04 Comprehensive & Integrated drainage of site

15. I55 Site Waste Management

**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.

*(Councillor PA Andrews requested that her abstention be recorded.)*

*(The meeting adjourned between 12.35 am and 12.40 am)*

**191. 140290/O LAND ADJACENT TO BARBERRY HOUSE, THE ROW, WELLINGTON, HEREFORDSHIRE**

*(Mr M Willimont declared a non-pecuniary interest and left the room for the duration of this item.)*

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, as appended to these Minutes.

In accordance with the criteria for public speaking, Mrs J Gowan, Chair of Wellington Parish Council, spoke in opposition to the Scheme. Mr A Hughes, a resident, spoke in objection. Mr G Thomas, the applicant's agent spoke in support.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor AJM Blackshaw, the local ward member, spoke on the application.

He commented on a number of issues, highlighting the response of Wellington Parish Council published in the agenda papers. He questioned the feasibility of the technical solution to the access which relied on a neighbour making land available. He praised the work of the Parish Council in developing a Neighbourhood Development Plan.

The debate opened. The Council's lack of a 5year housing land supply was noted. However, the consensus was that, having regard to paragraph 14 of the National Planning Policy Framework, the adverse impact of the development would outweigh the benefits that the limited amount of housing development would provide.

The local ward member was given the opportunity to close the debate. He acknowledged the grounds for refusal set out in paragraph 3 of the recommendation.

**RESOLVED: That planning permission be refused for the following reasons:**

1. The development of this application site, by virtue of the site's location and topography, would result in a form of development that would adversely impact upon the character of the area that also has significant landscape

and biodiversity value and interest and that forms part of the setting of the settlement of Wellington contrary to Policies LA2, LA3 and H13 of the Herefordshire Unitary Development Plan and the guidance contained within the National Planning Policy Framework.

2. The application would lead to the loss or partial loss of important trees that form part of a UK priority habitat contrary to the requirements of Policies LA5, NC1 and NC6 of the Herefordshire Unitary Development Plan. The application does not provide sufficient information in order to demonstrate that an enhancement and benefit could be secured and as such does not comply with the requirements of Policy NC8 of the Herefordshire Unitary Development Plan.
3. The proposed development, by virtue of the site's location, topography and relationship with neighbouring properties, would represent an overbearing and intrusive form of the development that would potentially impact upon privacy and amenities currently enjoyed contrary to Policies DR2 and H13 of the Herefordshire Unitary Development Plan and guidance contained within the National Planning Policy Framework.

**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 and identifying matters of concern with the proposal and discussing those with the applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which have been clearly identified within the reasons for the refusal, approval has not been possible.

**192. 140904/CD JEWSON BUILDERS MERCHANT, CANAL WHARF, CANAL ROAD, HEREFORD, HR1 2EB**

The Development Manager gave a presentation on the application.

Some Members questioned the value and purpose of the application but it was also recognised that the application had to be considered on its individual merits. The Development Manager confirmed that the application was a small element of a larger plan.

**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 (Drawing numbers 1DMCXN018-P-001 and 002)**

**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. N11A Wildlife and Countryside Act 1981 (as amended) – Birds**
- 3. N11C General**

**193. DATE OF NEXT MEETING**

The Planning Committee noted the date of the next meeting.

The meeting ended at 1.20 pm

**CHAIRMAN**



<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>4 JUNE 2014</b>
<b>TITLE OF REPORT:</b>	<b>APPEALS</b>

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**CLASSIFICATION:** Open

## Wards Affected

Countywide

## Purpose

To note the progress in respect of the following appeals.

## Key Decision

This is not an executive decision.

## Recommendation

That the report be noted

## APPEALS RECEIVED

### Application 133297/U

- The appeal was received on 28 April 2014
- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Lawful Certificate
- The appeal is brought by Mr Paul Colley-Davies
- The site is located at The Hut, Winforton Woods, Winforton, Hereford, HR3 6EB
- The development proposed is Application for a Lawful Development Certificate for the use of the hut as a dwelling.
- The appeal is to be heard by Inquiry

**Case Officer: Mr M Tansley on 01432 261815**

## APPEALS DETERMINED

### Application 123461/F

- The appeal was received on 3 December 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 John Bothamley
- The site is located at Replacement Dwellings at The Rhydd, Much Dewchurch, Herefordshire
- The development proposed was Construction of 4 no new houses to replace derelict block of 4 no houses

The main issue(s) were: the sustainability of the location and the effect of the proposal on the character and appearance of the local area, protected species and highway safety.

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Further information on the subject of this report is available from the relevant case officer

**Decision:**

- The application was Refused under Delegated Powers on 18 July 2013
- The appeal was Dismissed on 21 May 2014

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

**Enforcement Notice 133551/ENF**

- The appeal was received on 17 January 2014
- The appeal is made under Section 174 of the Town and Country Planning Act 1990 against the service of an Enforcement Notice
- The appeal is brought by Mr K Sanghera
- The site is located at Land at, Benhall Court, Wilton, Ross-on-Wye, Herefordshire, HR9 6AD
- The breach of planning control alleged in this notice is:  
the change of use of the land to use for vehicle hire including associated laying of hardstand area, the siting of a portable building used as an ancillary office and the erection of a wash/service bay building
- The requirements of the notice are:  
Cease the use of the land for the purposes of the operation of a vehicle hire enterprise and remove all of the motor vehicles associated with the unauthorized use from the land.  
Demolish the wash/service bay building and remove all resultant materials from the land.  
Remove the portable office building from the land.

The main issue(s) were: firstly, the effects of the development on the character and appearance of the Conservation Area and the AONB and, secondly, on highway safety.

**Decision:**

- Appeals dismissed, planning permission refused and the enforcement notice upheld on 21 May 2014

**Case Officer: Mr R Close on 01432 261803**

## **APPEALS COSTS**

**Application N120761/F**

The appeal cost for Little Wacton Farm, Bredenbury, Herefordshire has been finalised. Costs were awarded against the Council. £3,000 will be paid to the applicant and £1,166.04 to the costs draughtsman who acted on behalf of the Council.

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>4 JUNE 2014</b>
<b>TITLE OF REPORT:</b>	<b>P140844/O - PROPOSED ERECTION OF 4 NO. THREE BEDROOM DETACHED DWELLINGS ON LAND AT THE SUN INN, OFF THE A438, WINFORTON, HEREFORDSHIRE,</b>  <b>For: Mr Greenwood per Mr Bernard Eacock, 1 Fine Street, Peterchurch, Herefordshire, HR2 0SN</b>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/planningapplicationsearch/details/?id=140844">https://www.herefordshire.gov.uk/planningapplicationsearch/details/?id=140844</a>

**Date Received: 19 March 2014**

**Ward: Castle**

**Grid Ref: 329833,247096**

**Expiry Date: 15 May 2014**

Local Members: Councillor J W Hope MBE,

## 1. Site Description and Proposal

- 1.1 The site comprises a 0.29 hectare (0.71 acre) area of pasture land located to the north east of The Sun Inn public house, Winforton. It is slightly elevated above the existing beer garden which is located directly to the south, and gently rises to the rear where it is bounded by mature native hedging and farmland. A small ditch/stream runs along the northern boundary. To the south east side of the site are two detached dwellings of modern construction. Vehicular access to the site is proposed via the unclassified Winforton 'Common Road' located to the east of the site.
- 1.2 The application seeks outline planning permission with all matters reserved for the construction of four detached dwellings. An indicative site layout plan accompanies the application.

## 2. Policies

### 2.1 National Planning Policy Framework (NPPF)

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 2007 (UDP)

S1	-	Sustainable development
S2	-	Development requirements
S3	-	Housing
S6	-	Transport

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

S7	-	Natural and historic heritage
DR1	-	Design
DR3	-	Movement
DR4	-	Environment
H6	-	Housing in smaller settlements.
H7	-	Housing in the countryside outside settlements
H13	-	Sustainable residential design
T8	-	Road hierarchy
LA2	-	Landscape character and areas least resilient to change
LA5	-	Protection of trees, woodlands and hedgerows
LA6	-	Landscaping
NC1	-	Biodiversity and development
NC6	-	Biodiversity action plan priority habitats and species
NC7	-	Compensation for loss of biodiversity

### Herefordshire Local Plan – Draft Core Strategy

2.3	SS1	-	Presumption in Favour of Sustainable Development
	SS2	-	Delivering New Homes
	SS3	-	Releasing Land for Residential Development
	SS4	-	Movement and Transportation
	SS6	-	Addressing Climate Change
	RA1	-	Rural Housing Strategy
	RA2	-	Herefordshire's Villages
	H1	-	Affordable Housing – Thresholds and Targets
	H3	-	Ensuring an Appropriate Range and Mix of Housing
	MT1	-	Traffic Management, Highway Safety and Promoting Active Travel
	LD1	-	Local Distinctiveness
	LD2	-	Landscape and Townscape
	LD3	-	Biodiversity and Geo-Diversity
	SD1	-	Sustainable Design and Energy Efficiency
	SD3	-	Sustainable Water Management and Water Resources
	ID1	-	Infrastructure Delivery

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:-

<https://www.herefordshire.gov.uk/planning-and-building-control/planning-policy/unitary-development-plan>

2.5 The Core Strategy has recently passed through Council and a number of objections have been lodged against the emerging housing policies. As such only minimal weight can be attributed to policies of the emerging Core Strategy in accordance with paragraph 216 of the NPPF.

### **3. Planning History**

3.1 None identified.

### **4. Consultation Summary**

#### Statutory consultees.

4.1 Welsh Water raises no objections.

#### Internal Council advice.

4.2 The Transportation Manager has responded to the application stating:

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

*'The proposal is acceptable. Adequate visibility exists at the access for a low speed/low traffic volume road. The visibility at the junction with the A438 is right on the limit, but acceptable. N.B. The dwellings will require cycle storage'.*

4.3 The Planning Ecologist has responded stating:

*' I have read the ecological report from Phil Quinn dated 2013 and broadly agree with its conclusions. The surveys were conducted out of season but I believe the nature of the site is such that in-season surveys would provide little extra information although I would request that the site is checked immediately prior to development for slow worms.*

*The National Planning Policy Framework 2012 states that "The planning system should contribute to and enhance the natural and local environment by minimising impacts on biodiversity and providing net gains in biodiversity wherever possible". It goes on to state that "when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity" and "opportunities to incorporate biodiversity in and around developments should be encouraged".*

The response recommends a condition to be attached to any approval notice issued with regards to following the recommendations set out in Section 8 of the ecologist's report by Phil Quinn dated December 2013 and prior to commencement of the development, a habitat enhancement plan being submitted to the Council. The response also recommends the attachment of two standard informative notes with regards to wildlife protection.

4.4 The Land Drainage Manager raises no objections subject to details being submitted with regards to a drainage strategy in relationship to the application.

## **5. Representations**

5.1 Eardisley Group Parish Council has responded to the application stating:

*'Comments passed to Winforton Councillors by Winforton residents: -*

*The vehicular access is poor from the main A438. The site access is from Common Lane, which is a single track lane where frequently driveways to domestic premises are used as passing places. The junction from Common Lane to the A438 is obscured, particularly to the eastern end, due to a barn obscuring the view.*

*Access at the bottom of the lane could easily create a 'bottle-neck' situation.*

*Serious investigation should take place regarding the drainage and sewage situation on and around this plot of land.*

*Originally this parcel of land was included in the Neighbourhood Plan and parishioners felt they had the ability to influence the long term planning and strategies for their community. They are now asking the question, what is the relevance of the Neighbourhood Plan.'*

5.2 Nine letters of support have been received

Comments made can be summarised as follows:

- There is a need to have further development in the village in order to attract new people and to retain a viable sustainable future for the village.
- Flooding issues are unlikely with consideration to the location for the development.
- The site is a sustainable location for development in relationship to the existing village.
- The junction of the A438 and Common Road is considered acceptable in relationship to national highway standards as recently indicated in a recent appeal hearing for development which would of made use of this junction for public highway access.

5.3 Nine letters of objection have been received.

Issues raised can be summarised as follows:

- Concerns about the fact that the local parish plan is not yet finalised and that the application should be deferred until this is finalised.
- Public highway access to the site should be through the Sun Inn car park rather than directly off Winforton Common Lane due to safety issues in relationship to the junction with the A438 public highway.
- Concerns about existing public drainage and sewage systems.
- The field subject to this application used to be used as a camping site and therefore contributing towards the sustainability of the public house and that loss of this field may well have a detrimental impact on the viability of the public house.

5.4 A further letter of comment has been received. The letter suggests the need for a road traffic survey with consideration to the proposed development and that all development for Winforton should be considered subject to the Neighbourhood Plan once complete.

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 in relationship to this application are:

- Principle of the development.
- Access.
- Drainage.

### Principle of the development.

6.2 The site is located on the northern fringe of a smaller settlement. Policy H6 of the Herefordshire Unitary Development Plan (UDP), housing in smaller settlements, does not support the principle of residential development in this location.

6.3 The National Planning Policy Framework (NPPF) was published on 27<sup>th</sup> March 2012 and became the sole planning policy document at national level. Paragraph 215 of the NPPF states that 12 months from the publication of the NPPF, "due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework". This 12-month period expired on 27<sup>th</sup> March 2013. Consequently the weight which can be attributed to individual policies of the UDP must therefore be assessed through their level of conformity with the NPPF. The closer the UDP policies are to the policies of the NPPF, the greater the weight that may be given.

6.4 Paragraph 47 of the NPPF requires all local authorities to provide a 5 year supply of land for housing plus a 5% or 20% "buffer", dependent on each local planning authority's record for housing delivery. A recent appeal decision at Home Farm, Belmont (APP/W1850/A/13/2192461) considered Herefordshire Council an authority requiring a 20% buffer to their 5 year Housing Land Supply.

- 6.5 Consequently Herefordshire Council are presently failing to meet this requirement and 'relevant policies for the supply of housing should not be considered up to date' as stated in Paragraph 49 of the NPPF. On this basis, the council's housing policies which define the geographical limits of residential development can be attributed little weight in the determining of an application for residential development.
- 6.6 As the Council's UDP housing policies can no longer be relied upon to determine the principle of residential development, applications should be considered 'in the context of the presumption in favour of sustainable development', as prescribed by paragraph 49 of the NPPF. Sustainable development is defined in paragraph 7 of the NPPF as a three pronged notion encompassing its economic, social and environmental roles.
- 6.7 The 'social role' of development places attention on the location for development with respect to local services and facilities. In this instance, the closest facilities and services to the site at approx equal distance are located at the market towns of Kington and Hay-on-Wye. Both provide amenities which one would associate with a market town. Further still Winforton is located alongside the A438 on which there is a bus service that provides limited transport to the city of Hereford and in the direction of Hay on Wye.
- 6.8 Whilst the application is in 'outline' with all matters reserved for future consideration, the application proposes four dwellings in a layout and scale considered satisfactory in relationship to the surrounding built environment and the provision of four suitably designed dwellings on this site is considered to have a negligible impact on the local landscape character largely due to the site's location and therefore conforms with UDP Policy LA2 and chapter 11 of the NPPF
- 6.9 Despite the proposal being contrary to the housing policies of the UDP, it is considered that in light of the council's inability to demonstrate a 5 year housing land supply plus a 20% buffer that the principle of 'small scale' residential development of the site is acceptable.

#### Access

- 6.10 Access into the site is proposed off the unclassified public highway known as Common Road. The Transportation Manager responded to the application indicating the proposal is acceptable, and that adequate visibility exists at the access for a low speed/low traffic volume junction with the A438. This is right on the limit, but acceptable.
- 6.11 The development will entail use of the 'Common Road' junction with the A438 and this is considered an acceptable means of access to the site with consideration to the intensity of the development and likely increase in traffic flows as a result of development on site. A recent appeal decision for development which would entail the use of this highway junction concluded that the junction does meet minimum national highway standards as commented upon in a letter of support.
- 6.12 Therefore whilst it is noted objections have been received with regards to use of this junction, it is considered that refusal of the application on grounds of use of the junction can not be sustained in the event of an appeal against refusal of the application. Any future 'reserved matters' application will address on site layout as advised by the Transportation Manager.
- 6.13 On balance, the proposal would give rise to a modest increase in use of the local highway network. Visibility splays are acceptable. The increase in use of the junction will have a negligible impact on highway safety. For these reasons the proposal is considered to have an acceptable impact on the local highway network in terms of safety and movement in accordance with UDP policies DR3, T8 and H13 and chapter 4 of the NPPF.

## Drainage

- 6.14 The site is not served by a mains sewage system and therefore the application proposes a biodisc sewage treatment plant. Such systems treat effluent and discharge purified water which is safe to discharge into the ground. The application also proposes a reed bed filtration system as part of the foul drainage discharge.
- 6.15 Welsh Water raises no objections and the Land Drainage Manager also raises no objections subject to a condition being attached to any 'outline' approval notice with regards to management of surface and foul water drainage.
- 6.16 With consideration to the location and intensity of development on site, drainage proposals in principle are considered acceptable, and it is recommended that any approval has a condition attached in order to ensure drainage detail by means of a detailed drainage strategy for the site is adequately addressed at the 'reserved matters' stage.
- 6.17 With consideration to the above-mentioned, on drainage issues, with attachment of a relevant condition to any approval notice the proposed development is considered acceptable and in accordance with Policies S1 and DR4 of the UDP on drainage issues and chapter 10 of the NPPF.

## Other Matters

### Residential Amenity and Privacy

- 6.18 The application site is of such a size that 4 dwellings can be accommodated without compromising the privacy of existing neighbouring dwellings or the privacy of the individually proposed dwellings. It is officer opinion that this, in conjunction with the wider consideration of the scheme as referred to above, means that the proposed development is considered 'appropriate' in the context of paragraph 49 of the NPPF.

### Ecology

- 6.19 The Council's Ecologist concurs with the content of the ecology report by Phil Quinn dated 2013 which accompanies this application and considers the proposed development to exert no undue impact on biodiversity or wildlife in accordance with UDP Policies NC1, NC6 and NC7. A condition should be attached to any permission issued to ensure that works are undertaken in accordance with recommendations made throughout the ecology report.

### Neighbourhood Plan.

- 6.20 Letters of objection received refer to concern about the prematurity of the application with regards to the neighbourhood plan. Refusal of planning permission on grounds of prematurity will seldom be justified where a draft Local Plan has yet to be submitted for examination, or in the case of a neighbourhood plan, before the end of the local planning authority publicity period. Members may also note that the recently launched 'Planning Practice Guidance' states that circumstances where prematurity may constitute a reason for refusal are likely to be limited to situations where both:
- a) the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging Local Plan or Neighbourhood Planning; and
  - b) the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.



It is officer opinion that the emerging Core Strategy and Neighbourhood Plan are still at a relatively early stage of preparation and, as such, prematurity cannot be argued as a reason to refuse this application.

#### Loss of field.

- 6.21 Letters of objection received refer to concerns about the loss of the field and its impact on the future viability of the Public House. The Public House has curtilage ground in connection to the pub which provides a 'beer garden' and car parking, and as such, use of the field for development is considered will not impinge on the future viability of the public house.

#### Planning Obligations.

- 6.22 On 4 March 2009, the Local Planning Authority temporarily suspended the requirement for residential development of five dwellings or less to accord with the Authority's 'Planning Obligations' Supplementary Planning Document (February 2008) where development would commence within two years of the date of an outline permission being granted. This submission states a preference for a two year permission and as such the requirement of Section 106 contribution is waived.

#### Conclusions

- 6.23 In light of the above, the principle of development is considered acceptable having particular regard for the location of the site in relation to the built up area of the village, local services and facilities, the intensification of vehicle numbers on the local highway, potential impact on landscape character and the ability of the site to accommodate four dwellings. On this basis it is recommended that in accordance with the presumption in favour of sustainable development as referred to in the NPPF and giving weight to the Council's inability to demonstrate a five year housing land supply, that outline planning permission be granted .

### **RECOMMENDATION**

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

- 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. A05 Plans and particulars of reserved matters**
- 5. B01 Development in accordance with the approved plans**
- 6. Details will be submitted at the 'Reserved matters' stage with regards to the proposed foul and surface water drainage arrangements for the site and this will include provision of a detailed drainage strategy that demonstrates that opportunities for the use of SUDS feature have been maximised , including use of infiltration techniques and on ground conveyance and storage features. Detail will also include discharge rates for all storm events up to and including the 1 in 100 year rainfall event with a 30% increase in rainfall intensity in order to allow for the effects of future climate change. Detail will also be included indicating that adequate pollution control measures are in place prior to discharge and that there is permission to discharge foul and surface water runoff from the site with the relevant authorities.**

**Reason:** In order to ensure that satisfactory drainage arrangements are provided and to comply with Policies S1 and DR4 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework.

**7. G03 Retention of existing trees/hedgerows**

- 8. The recommendations set out in Section 8 of the ecologist’s report by Phil Quinn dated December 2013 must be followed in relation to the identified protected species. Prior to commencement of the development, a habitat enhancement plan must be submitted to and be approved in writing by the local planning authority, and the work shall be implemented as approved. An appropriately qualified and experienced ecological clerk of works must be appointed (or consultant engaged in that capacity) to oversee the ecological mitigation work to check for slow worm on the site immediately prior to development.**

**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, NC7, NC8 and NC9 of the Herefordshire’s 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, 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. N11A Wildlife and Countryside Act 1981 (as amended) - Birds**
- 3. N11C General**
- 4. HN04 Private apparatus within highway**
- 5. HN05 Works within the highway**
- 6. HN08 Section 38 Agreement & Drainage details**

Decision: .....

Notes: .....

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**Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** 140844/O

**SITE ADDRESS :** LAND AT THE SUN INN, OFF THE A438, WINFORTON, HEREFORDSHIRE

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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>4 JUNE 2014</b>
<b>TITLE OF REPORT:</b>	<b>P140495/F - DEVELOPMENT OF 1 DWELLING WITH OFF STREET PARKING AND GARDEN. AT LAND ADJACENT TO, 7 MILVERN CLOSE, BROMYARD, HEREFORDSHIRE, HR7 4UH</b>  <b>For: Mr Davis per Bodkin Hall, Edwyn Ralph, Bromyard, Herefordshire HR7 4LU</b>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/planningapplicationsearch/details/?id=140495">https://www.herefordshire.gov.uk/planningapplicationsearch/details/?id=140495</a>

**Date Received: 13 February 2014      Ward: Bromyard      Grid Ref: 365233,254814**

**Expiry Date: 28 April 2014**

Local Members: Councillors J. G Lester and A Seldon

## 1. Site Description and Proposal

- 1.1 Planning permission is sought for a detached 3 bedroom dwelling in Milvern Close, Bromyard  
The site adjoins a pair of semi-detached dwellings.
- 1.2 The application site falls inside the settlement boundary for Bromyard as defined under Policy H4 of the Unitary Development Plan. The application site area is irregular in shape. The western boundary is defined by a high retaining wall faced in stone. A lower wall defines the northern boundary, which adjoins a public footpath that inclines steeply from Milvern Close to Wye Avenue to the north-west. The detailed plans submitted are for a single detached dwelling set back from the roadside elevation of 7 Milvern Close. The eaves height is consistent between the existing and proposed dwellings, however, the ridge height is 400mm lower on the proposed dwelling. Two parking spaces are proposed to the front of the new property. The existing dwelling will have no off road parking facilities. The new dwelling is on the site of a single width garage and side garden to the property.
- 1.3 The proposed three bedroom dwelling will be faced in brickwork under a tiled roof, which reflects the local vernacular of housing development dating from the latter half of the twentieth century.

## 2. Policies

- 2.1 The National Planning Policy Framework 2012:

Paragraph 7 - Sustainable development  
 Chapter 6 - Delivering a wide choice of high quality homes  
 Chapter 7 - Requiring good design  
 Chapter 8 - Promoting healthy design  
 Paragraph 215

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Further information on the subject of this report is available from Mr A Prior on 01432 261932

## 2.2 Herefordshire Unitary Development Plan

S1	-	Sustainable Development
S2	-	Development Requirements
S7	-	Natural and Historic Heritage
DR1	-	Design
DR2	-	Land Use and Activity
DR3	-	Movement
DR5	-	Planning Obligations
H4	-	Main Villages: Settlement Boundaries
H13	-	Sustainable Residential Design
H16	-	Car Parking

## 2.3 Draft Core Strategy: The following policies are relevant, however have limited weight due to the status of the Core Strategy and representations received.

SS1	-	Presumption in Favour of Sustainable Development
SS4	-	Movement and Transportation
SS6	-	Addressing Climate Change
HD2	-	Hereford Movement
ID1	-	Infrastructure Delivery
MT1	-	Traffic Management, Highway Safety and Promoting Active Travel
H3	-	Ensuring an Appropriate Range and Mix of Housing
SD1	-	Sustainable Design and Energy Efficiency
SD2	-	Renewable and Low Carbon Energy

## 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:-

<https://www.herefordshire.gov.uk/planning-and-building-control/planning-policy/unitary-development-plan>

## 3. Planning History

3.1 None.

## 4. Consultation Summary

### Statutory Consultees

4.1 Welsh Water: No objection subject to the imposition of conditions requiring the separation of foul and surface water drainage.

### Internal Council Advice

4.2 Traffic Manager: Has reconsidered the proposal and objects as the proposal removes parking and cycle storage for the existing dwelling.

## 5. Representations

5.1 Bromyard Town Council resolves to support application

5.2 Four letters of objection have been received from local residents. The content is summarised as follows:-

- Already cars park both sides of cul-de-sac. Will get worse with loss of parking to No.7

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Further information on the subject of this report is available from Mr A Prior on 01432 261932

- Emergency vehicles will have difficulty accessing
- Loss of view of Bromyard Downs. Will see only tiled roof
- 80-100 tonnes of soil and rubble already removed from site at foot of retaining wall. Total collapse of wall possible , no drainage holes in wall
- Retaining wall on Wye Avenue, above proposal site, cracking and moving
- Undersized site should build elsewhere
- Precedent

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 Development Plan is the Herefordshire Unitary Development Plan 2007 (HUDP). This site is wholly within the town boundary and is within reasonable walking distance of a number of facilities in the locality. Therefore, there is a presumption in favour of such development. The issues relating to this proposal are the siting, the form of development, parking facilities and the structural integrity of a boundary wall.

6.2 Paragraph 14 of the NPPF confirms that where the development plan is absent, silent or relevant policies are out of date, there is a presumption in favour of granting planning permission for sustainable development unless:

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or
- specific policies in this Framework indicate development should be restricted

6.3 It is considered that it is possible to erect a detached dwelling on the plot available. This is given that the existing property and proposed dwelling will still have rear garden area and the new dwelling will not materially overlook or overshadow dwellings in its vicinity. There is a need for good design in the HUDP which is reflected in the NPPF and this can be achieved . It is not considered that this is a cramped site as has been stated in representations received given the area of land remaining to the side and rear of the proposed dwelling.

6.4 The next issue relates to car parking in the cul-de-sac which has been raised as issue by the Council's Traffic Manager and in representations received. The proposed dwelling will have two on-site parking spaces together with a garden shed that can provide secure cycle storage. The existing dwelling will lose a garage and on-site parking facility. However, there is scope to provide one on-site parking space on the northern side of the property by removal of a low boundary wall. This provision is consistent with other properties on the western side of Milvern Close and given the location of the site in relation to local facilities, this site is evidently a sustainable one that is not wholly car dependent and is reasonably accessible to facilities both by foot and cycle.

6.5 Works have been undertaken to a rear boundary retaining wall of the proposal site, that would not have required planning permission and according to local residents several tonnes of soil and rubble has been removed. This is though a matter that falls outside the remit of this planning application notwithstanding that any works for the new dwelling will need to satisfy the requirements of the Building Regulations as regards ground stability and the stability of boundary walling. However, given the need to cut the dwelling into the site it is considered that a condition requiring the approval of slab levels would address these concerns.

6.6 The local concerns and those of the Traffic Manager have been given due consideration. Overall, in the context of the above mentioned planning policies and other material considerations it is considered that the application site location is sustainable with regard to the NPPF in particular paragraphs 14 and 49 and therefore planning permission is recommended.

## RECOMMENDATION

That planning permission be granted subject to the following conditions:

1. **The development hereby permitted shall be begun before the expiration of one year from the date of this permission.**

**Reason: To comply with the provisions of section 91(1) (b) of the Town and Country Planning Act 1990 (as amended) and to reflect the decision of the local planning authority on 4<sup>th</sup> March , 2009 to suspend (effective from 1<sup>st</sup> April, 2009) the requirements of the Authority's Planning Obligations Supplementary Planning Document (February 2008) in relation to all employment developments falling within Classes B1, B2 and B8 of the Town and Country Planning Use Classes Order 1987 as amended by the Town and Country Planning (Use Classes) (Amendment) (England) Order 2005, the employment element of any mixed use development and residential developments of five dwellings or less**

2. B01 Development in accordance with the approved plans
3. C01 Samples of external materials
- 4 H10 Parking for proposed and existing house
5. I 16 Restriction of hours during construction
6. I 43 No burning of material/substances
7. I 51 Details of slab levels
8. L 01 Foul/surface water drainage
9. L02 No surface water to connect (either directly or indirectly) to the public sewerage system
10. L 03 No drainage run-off to public system

## 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.

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Further information on the subject of this report is available from Mr A Prior on 01432 261932



**2. Welsh Water Advice:**

If a connection is required to the public sewerage system, the developer is advised to contact Dwr Cymru Welsh Water's Developer Services on 0800 917 2652.

Some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. The presence of such assets may affect the proposal. In order to assist us in dealing with the proposal we request the applicant contacts our Operations Contact Centre on 0800 085 3968 to establish the location and status of the sewer. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.

The Welsh Government have introduced new legislation that will make it mandatory for all developers who wish to communicate with the public sewerage system to obtain an adoption agreement for their sewerage with Dwr Cymru Welsh Water (DCWW). The Welsh Ministers Standards for the construction of sewerage apparatus and an agreement under Section 104 of the Water Industry Act (WIA) 1991 will need to be completed in advance of any authorisation to communicate with the public sewerage system under Section 106 WIA 1991 being granted by DCWW.

Welsh Government introduced the Welsh Ministers Standards on 1 October 2012 and we would welcome your support in informing applicants who wish to communicate with the public sewerage system to engage with use at the earliest opportunity. Further information on the Welsh Ministers Standards is available for viewing on our Development Services Section of our website - [www.dwrcymru.com](http://www.dwrcymru.com)

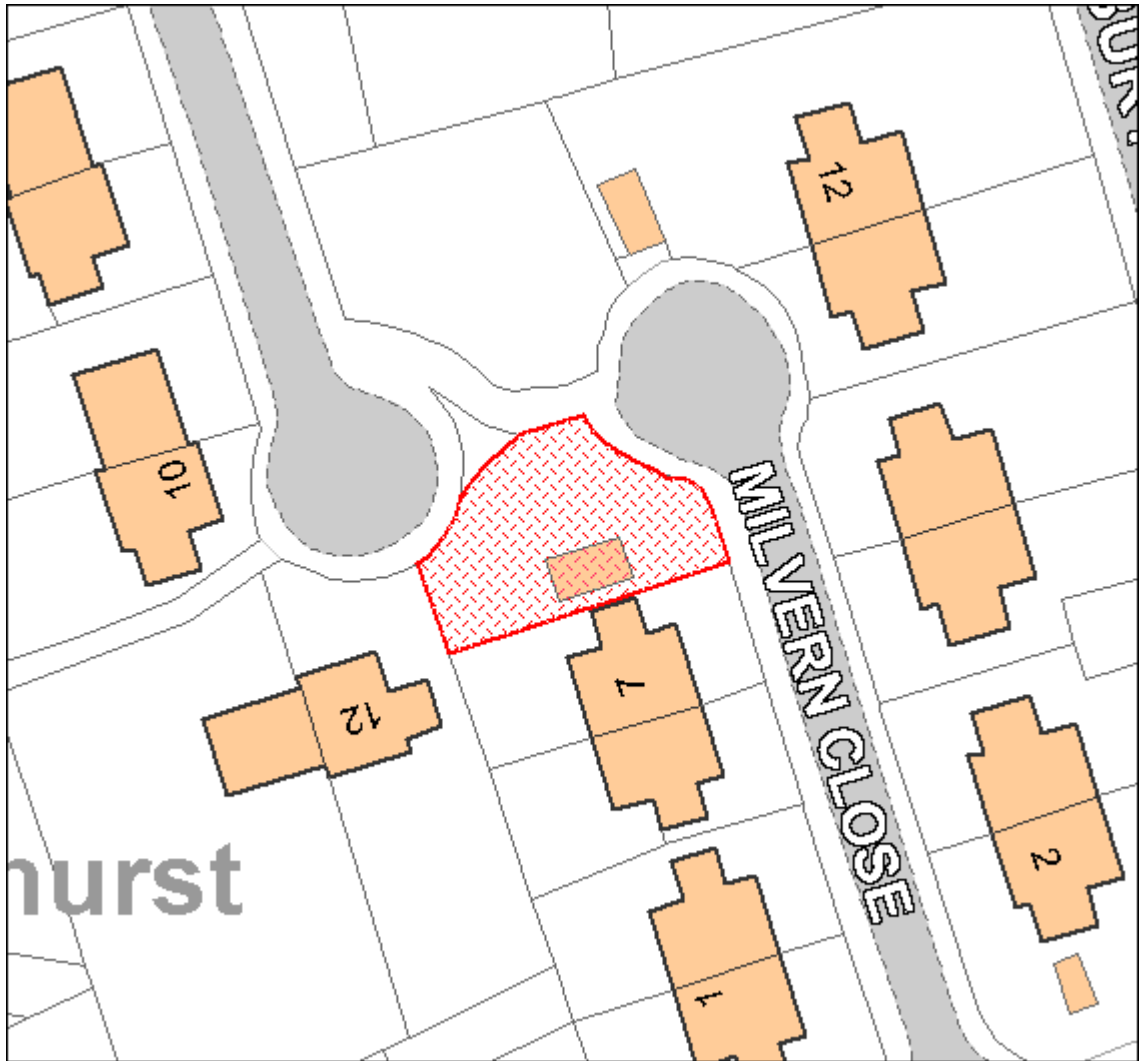
Further information on the Welsh Ministers Standards can be found on the Welsh Government website - [www.wales.gov.uk](http://www.wales.gov.uk)

Decision: .....

Notes: .....

**Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** 140495/F

**SITE ADDRESS :** LAND ADJACENT TO, 7 MILVERN CLOSE, BROMYARD, HEREFORDSHIRE, HR7 4UH

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Further information on the subject of this report is available from Mr A Prior on 01432 261932



<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>4 JUNE 2014</b>
<b>TITLE OF REPORT:</b>	<b>P140116/F - NEW DWELLING AT LAND ADJACENT TO RECTORY GATE, STOKE PRIOR, HEREFORDSHIRE, HR6</b>  <b>For: Mr Hinton per Mr Garry Thomas, Watershed, Wye Street, Hereford, Herefordshire, HR2 7RB</b>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/planningapplicationsearch/details/?id=140116">https://www.herefordshire.gov.uk/planningapplicationsearch/details/?id=140116</a>

**Date Received: 10 January 2014**      **Ward: Hampton Court**      **Grid Ref: 352445,256735**  
**Expiry Date: 7 March 2014**

Local Member: Councillor Jeremy Millar

## 1. Site Description and Proposal

- 1.1 The application site is to the north east of the main built up area of Stoke Prior. It is linked to the main part of the village by a class III road that leads north eastwards to the site and continues eastwards to the Three Rivers Ride, classified road, at a point just north of a dismantled railway.
- 1.2 The proposal site gains access off the northern side of a bend on the C1112 road. An unadopted track which is also the line of a public footpath leads north westwards. The proposal site is elevated above the level of this track. There are trees along the western boundary and trees to the south and east of the site with existing portal framed blockwork structures and hardstanding. The access point is 50 metres north of the C1112 road. The aforementioned public footpath leads eastwards by following the northern boundary of the site. The unadopted road leads further north westwards to Grovefields. The Old Rectory is 120 metres to the north east of the proposed site. It is understood that the site has been rented out for use as stabling.
- 1.3 The proposal entails erecting a predominantly vertically timber clad 4 bedroom dwelling. It will be 9.8 metres to its clay tiled roof. The roof will cantilever out by 2.2 metres on the southern end of the dwelling. This elevation will be predominantly glazed for purposes of maximising solar passive gain. The floor area will be 93.3 sq metres for each floor measured externally i.e 186.6 in total but excluding the covered area on the south elevation and the integral double garage.

## 2. Policies

### National Planning Policy Framework

- 2.1 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

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Section 11 - Conserving and Enhancing the Natural Environment

2.2 Herefordshire Unitary Development Plan 2007 (UDP)

S1	-	Sustainable Development
S2	-	Development Requirements
S3	-	Housing
S6	-	Transport
S7	-	Natural and Historic Heritage
DR1	-	Design
DR3	-	Movement
DR4	-	Environment
H6	-	Housing in smaller settlements
H7	-	Housing in the Countryside Outside Settlements
H13	-	Sustainable Residential Design
T8	-	Road Hierarchy
LA2	-	Landscape Character and Areas Least Resilient to Change
LA5	-	Protection of Trees, Woodlands and Hedgerows
LA6	-	Landscaping
NC1	-	Biodiversity and Development
NC6	-	Biodiversity Action Plan Priority Habitats and Species
NC7	-	Compensation for Loss of Biodiversity

2.3 Herefordshire Local Plan – Draft Core Strategy

SS1	-	Presumption in Favour of Sustainable Development
SS2	-	Delivering New Homes
SS3	-	Releasing Land for Residential Development
SS4	-	Movement and Transportation
SS6	-	Addressing Climate Change
RA1	-	Rural Housing Strategy
RA2	-	Herefordshire's Villages
H1	-	Affordable Housing – Thresholds and Targets
H3	-	Ensuring an Appropriate Range and Mix of Housing
MT1	-	Traffic Management, Highway Safety and Promoting Active Travel
LD1	-	Local Distinctiveness
LD2	-	Landscape and Townscape
LD3	-	Biodiversity and Geo-Diversity
SD1	-	Sustainable Design and Energy Efficiency
SD3	-	Sustainable Water Management and Water Resources
ID1	-	Infrastructure Delivery

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:-

<https://www.herefordshire.gov.uk/planning-and-building-control/planning-policy/unitary-development-plan>

### 3. Planning History

3.1 None.

### 4. Consultation Summary

#### Internal Council Advice

4.1 The Council's Transportation Manager has no objections on highway safety grounds.

- 4.2 The Council's Conservation Manager (Ecologist) accepts the contents of the submitted ecology report and does not object to the proposal. Conditions are recommended to ensure that the proposed mitigation works are carried out.
- 4.3 The Council's Environmental Health & Trading Standards Manager (Air, Land and Water Protection) has no objections as regards the possible contamination of the site from previous use.

## 5. Representations

- 5.1 Humber, Ford and Stoke Prior Group Parish Council's response is as follows :

The above planning application was considered by the Group Parish Council's Planning Committee on 5 February 2014. The applicant (Mr James Hinton) and 3 other residents attended the meeting: the meeting heard statements from the applicant and also statements and questions from local residents. The Committee noted that there were several errors of fact in the application itself, which needed to be corrected:

1. Firstly, the applicant's name at the address given is Mr James Hinton, and not Mr Stuart Hinton, and he is the applicant and not the agent.
2. Secondly, the location of the development site is incorrectly given as "Land adjacent to Rectory Gate, Stoke Prior"; the site is actually adjacent to The Old Rectory, Stoke Prior. The Committee noted the possibility that local residents may have been misled as to the location by this error.
3. Thirdly, the Committee was concerned to correct the misrepresentation in the Design and Access Statement and in the covering letter from Mr James Hinton that the Parish Council, individual councillors or its officers had indicated their support for the application prior to the meeting of its Planning Committee. Although the applicant had spoken with the Clerk and Chairman about the application, advice was given only about the relevant planning policies and the procedure for considering applications, including the advice that the Council's views on the application could only be determined at a formal meeting.
4. Fourthly, there were other inaccuracies in the Planning Application Form, including section 5 details of the pre-planning advice received, section 12 details of the adjacent water course and section 15 reference to trees and hedges.

The Committee also noted concerns from the owners of the neighbouring property, The Old Rectory, about the development causing possible damage to the septic tank and surface water drainage from their property, which had been raised with the applicant prior to the application but had not been addressed in the application.

The Committee also noted that UDP Policy H6 (Housing in smaller settlements) might preclude this development, but that the new draft Core Strategy policy RA1 required the growth of villages including Stoke Prior, and that under the National Planning Policy Framework (para 216), emerging strategy should be given weight in planning decisions.

After considering the comments and questions from the public and the applicant, and discussing the application, the Committee resolved that:

The Committee supports the application as providing additional housing in the village of Stoke Prior, towards the target of meeting the county's housing needs in the Bromyard Housing Market Area (Policy RA1 in the draft Core Strategy 2011-2031), this support being conditional on the application being amended to:

- (a) correct the name of the applicant, the location of the development and other inaccuracies in the application;
- (b) correct the statements concerning prior statements of support from the Parish Council;
- (c) address the concerns of the owners of the adjacent land about drainage, and that these amendments be notified to the Council.

5.2 One letter of representation has been received from an adjoining property (The Old Rectory).

The following main points are made and summarised as follows :

- Group Parish Planning Committee request changes to application form,
- Incorrect name and address
- No details of Pre –Application Advice shown, recycling not detailed, foul sewage not detailed on plan
- Site is within 20 metres of a watercourse, not as stated
- Existing use Horse Quarantine Stabling
- There are trees and hedges to south and east of site
- It does involve a change of use.
- Not clear what new tree planting entails
- No mention of how development would affect my septic tank and spreaders which are not detailed; have commissioned third party to locate them
- No mention of how water would be supplied i.e bore-hole or mains particularly give existence of our existing septic tank and spreaders.

5.3 The applicant's agent has responded to the issues raised by the Group Council as follows :

- The applicant name can be changed to Mr James Hinton ( and not his father)
- There are no trees affected by the development i.e cut down
- There is no watercourse crossing the site, there is a swale carrying storm water from the Old Rectory. This is a civil matter, but have advised my client to speak to his neighbours

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

Principle of Development

6.1 The application site is located outside of the settlement boundary of Stoke Prior as defined under UDP Policy H4, 85 metres to the east of the southernmost part of the village. Being outside of a defined settlement, the principle of development falls to be considered firstly against local policies relating to residential development within the open countryside, UDP Policy H7.

6.2 The intent of UDP Policy H7 accords with the aims and objectives of the NPPF with paragraph 55 being of particular relevance in this instance and indicates that unless exceptional circumstances can be demonstrated, housing outside of defined settlements will not be permitted. This proposal does not appear to satisfy any of the exceptional criteria under which housing in the open countryside could be considered acceptable as listed under Policy H7 and therefore conflicts with it.

- 6.3 The National Planning Policy Framework (NPPF) was published on 27 March 2012 and became the sole planning policy document at national level, replacing the series of Planning Policy Statements and Planning Policy Guidance documents which were in place when the previous applications were made on the site. Paragraph 215 of the NPPF states that 12 months from the publication of the NPPF, “due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework”. This 12-month period expired on 27 March 2013. Consequently the weight which can be attributed to individual policies of the UDP must therefore be assessed through their level of conformity with the NPPF. The closer the UDP policies are to the policies of the NPPF, the greater the weight that may be given.
- 6.4 Paragraph 47 of the NPPF requires all local authorities to provide a 5 year supply of land for housing plus a 5% or 20% “buffer”, dependent on the each local planning authority’s record for housing delivery. A recent appeal decision at Home Farm, Belmont (APP/W1850/A/13/2192461) considered Herefordshire Council an authority requiring a 20% buffer to their 5 year Housing Land Supply.
- 6.5 Herefordshire Council are currently failing to meet this requirement and consequently ‘relevant policies for the supply of housing should not be considered up to date’ as stated in Paragraph 49 of the NPPF. On this basis, the council’s housing policies (H4 in this instance) which define the geographical limits of residential development can be attributed little weight in the determining of an application for residential development.
- 6.6 As the Council’s housing policies can no longer be relied upon to determine the principle of residential development, applications shall be considered ‘in the context of the presumption in favour of sustainable development’, as prescribed by paragraph 49 of the NPPF. Sustainable development is defined in paragraph 7 of the NPPF as a three pronged notion encompassing its economic, social and environmental roles.
- 6.7 The ‘social role’ of development places particular emphasis on the location of development with respect to local services and facilities. In this instance, the closest facilities and services to the site are located at Stoke Prior including a village hall, bus stop and public house, although currently closed. Stoke Prior is identified as a smaller settlement in the HUDP, where the emphasis is on limited infill development. The proposal site is remotely located and will be car dependent and as such not only falls short of what constitutes sustainable development in the HUDP in Policies S1, S2, DR1, DR2, H13 and T8 but also of Paragraphs 7, 17, 34, 55 and 109 of the National Planning Policy Framework.

#### Ecology

- 6.8 The Council’s Ecologist concurs with the content of the ecology report by Tyler Grange dated November 2013 which accompanies this application and considers the proposed development to exert no undue impact on biodiversity or wildlife in accordance with UDP Policies NC1, NC6 and NC7. Conditions should be attached to any permission given to ensure that works are undertaken in accordance with recommendations made throughout the ecology report.

#### Highways and Access

- 6.9 There is an existing access to the application site which is located on the western boundary of the site. This vehicular access is a relatively short distance from the C1112 road. The traffic generated by this proposal can be readily absorbed on the local road network in terms of safety of other road users and therefore the proposal is in accordance with UDP policies DR3, T8 and H13 and chapter 4 of the NPPF.

Residential Amenity and Privacy

6.10 The proposed dwelling will not compromise the privacy of residents living in the vicinity of the site given the existing screening around the proposed dwelling and the distances between the site and surrounding residential properties. Therefore, the proposal in this respect is in accordance with Policy DR2 of HUDP.

Other Matters

6.11 The matter raised relating to the name of the applicant has been confirmed, the issue of the watercourse acknowledged and confirmation about the removal of trees clarified by the applicant. The matter relating in particular to the watercourse is a civil matter and not considered to entail grounds for withholding planning approval. Should planning approval be granted the extent of tree removal could be controlled by planning condition.

Conclusion

6.12 In light of the above, the principle of development is not considered acceptable having particular regard for the location of the site in relation to local services and facilities, local transport infrastructure, and the reliance on the use of private transport. The need for sustainable development is a fundamental principle in the NPPF, and therefore notwithstanding the recognised shortfall in the housing land supply, there is still a requirement that development be in accordance with Paragraph 14 of the Framework, which is the *presumption in favour of sustainable development*. This principle is not satisfied given that the benefits of providing the development are outweighed significantly, in this instance and as such the application is recommended for refusal.

**RECOMMENDATION**

**That planning permission be refused for the following reasons:**

**1 The proposal represents unsustainable development within the open countryside with poor pedestrian access to local facilities and services. Therefore, the proposal is contrary to the provisions of policies S1, S2, DR1, DR2, H13, and T8 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework , particularly paragraphs 7, 17, 34, 35, 55 and 109.**

**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 and identifying matters of concern with the proposal. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reasons for the refusal, approval has not been possible.**

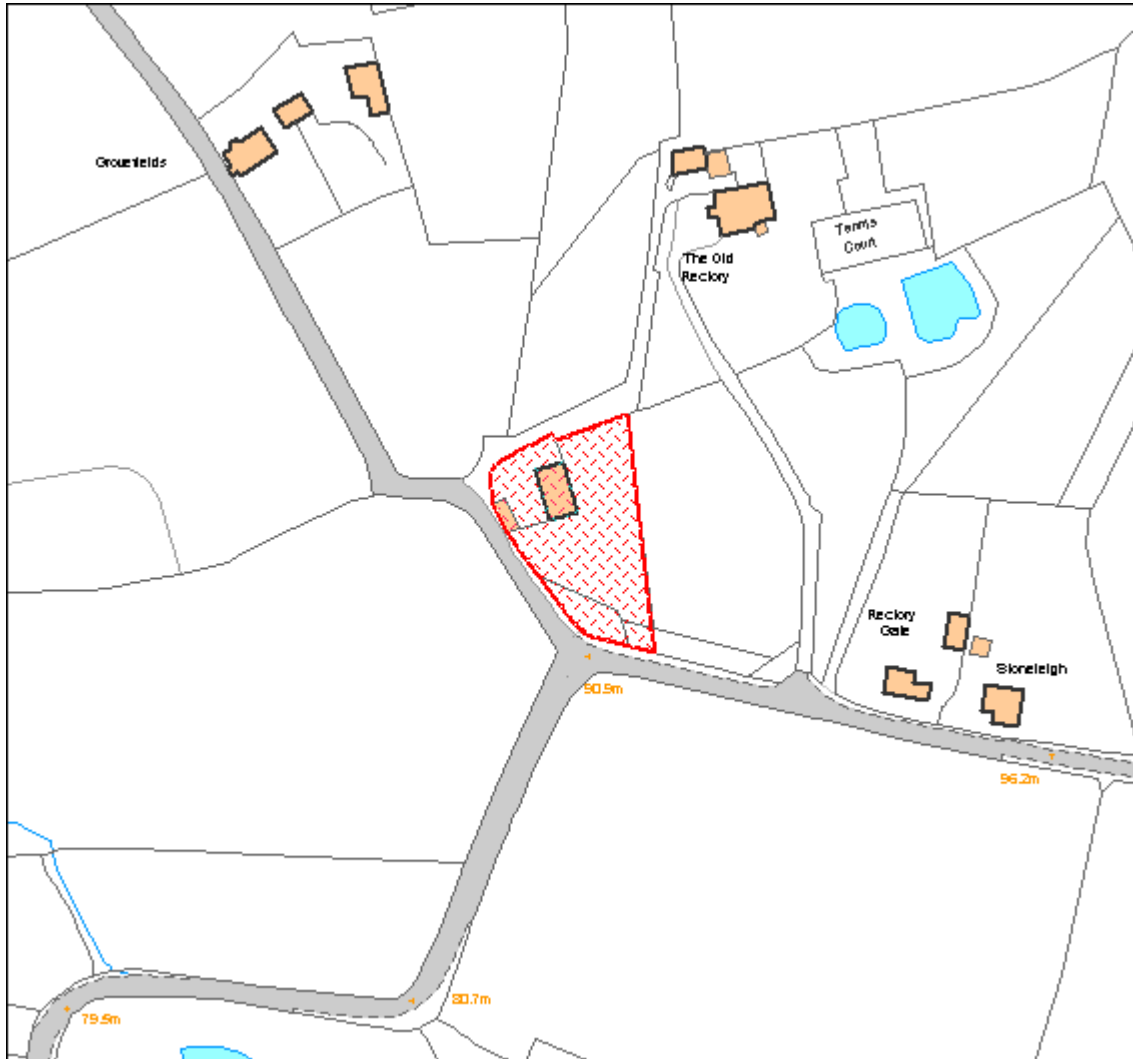
Decision: .....

Notes: .....  
.....

**Background Papers**

Internal departmental consultation replies.





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**APPLICATION NO:** 140116/F

**SITE ADDRESS :** LAND ADJACENT TO RECTORY GATE, STOKE PRIOR, HEREFORDSHIRE, HR6

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