

AGENDA

Planning Committee

Date: **Wednesday 6 August 2014**

Time: **10.00 am**

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

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

For any further information please contact:

Tim Brown, Democratic Services Officer

Tel: 01432 260239

Email: tbrown@herefordshire.gov.uk

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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 JG Lester

Councillor RI Matthews

Councillor RL Mayo

Councillor FM Norman

Councillor J Norris

Councillor GR Swinford

Councillor TL Widdows

Councillor DB Wilcox

AGENDA

VISITING BROCKINGTON - POLICE REQUEST - CAR PARKING

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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 16 July 2014.

5. CHAIRMAN'S ANNOUNCEMENTS

To receive any announcements from the Chairman.

6. APPEALS

To be noted.

7. P133401/F LAND SOUTH OF PENRHOS FARM, LYONSHALL, KINGTON, HR5 3LH

Erection of 4 no. broiler buildings, agricultural storage building, 2 no. control rooms, 10 no. feed bins, hardstanding and access improvements and drainage attenuation pond.

8. P141240/O LAND AT THE TRAVELLERS REST, STRETTON SUGWAS, HEREFORDSHIRE, HR4 7AL

Proposed erection of 5 terraced houses and formation of parking.

9. P141314/O LAND AT RYELANDS VIEW, KINSHAM, PRESTEIGNE, LDH 2HP

Proposed two bedroom bungalow.

10. P141230/F COUNTIES VIEW, MUCH BIRCH, HEREFORD, HR2 8HL

Proposed erection of a detached dwelling.

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| 11. P141087/F LAND AT GARDDD Y FFIN, GARWAY, HEREFORDSHIRE, HR2 8RE | 83 - 92 |
| Proposed construction of a detached 4 bed dwelling and garage block containing artist studio. | |
| 12. P141489/F LAND ADJACENT TO CAE DUFF, GARWAY COMMON, HEREFORD, HR2 8RF | 93 - 102 |
| Proposed house with garage/workshop. | |
| 13. P140397/F HOPE FAMILY CENTRE, TOP GARAGE, HEREFORD ROAD, BROMYARD, HR7 4QU | 103 - 110 |
| Variation of Condition 15 on NC09/1820/O | |
| 14. DATE OF NEXT MEETING | |
| Date of next site inspection -26 August 2014 | |
| Date of next meeting -27 August 2014 | |

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- 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.
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- 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.

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HEREFORDSHIRE COUNCIL

MINUTES of the meeting of Planning Committee held at The Council Chamber, Brockington, 35 Hafod Road, Hereford on Wednesday 16 July 2014 at 10.00 am

Present: Councillor PGH Cutter (Chairman)
Councillor PA Andrews (Vice Chairman)

Councillors: AN Bridges, EMK Chave, BA Durkin, PJ Edwards, DW Greenow, KS Guthrie, J Hardwick, MAF Hubbard, Brig P Jones CBE, JG Lester, FM Norman, J Norris, GR Swinford, DC Taylor and DB Wilcox

In attendance: Councillors AM Atkinson, CM Bartrum, JLV Kenyon and MD Lloyd-Hayes

21. APOLOGIES FOR ABSENCE

Apologies were received from Councillors JW Hope, RI Matthews and RL Mayo.

22. NAMED SUBSTITUTES

In accordance with paragraph 4.1.23 of the Council's Constitution, Councillor DC Taylor attended the meeting as a substitute member for Councillor RI Matthews.

23. DECLARATIONS OF INTEREST

Agenda item 7: P132028/F Land at Over Ross Street, Ross-on-Wye, Herefordshire

Councillor PGH Cutter declared a non-pecuniary interest as his business had had dealings with the Company that owned the site. However, he had had no dealings with the applicant and no link to the site itself. He was also a member of the Wye Valley AONB Joint Advisory Committee.

Councillor BA Durkin declared a non-pecuniary interest as a member of the Wye Valley AONB Joint Advisory Committee.

Councillor J Hardwick declared a non-pecuniary interest as a member of the Wye Valley AONB Joint Advisory Committee.

Agenda item 8: P141526/O Land South of Hampton Dene Road, Hereford

Councillor DW Greenow declared a disclosable pecuniary interest because he used to rent the land and his sister lived opposite to the site. He left the meeting for the duration of this item.

Councillor DB Wilcox declared a non-pecuniary interest because he lived in the vicinity of the site and would be affected by traffic increase.

Mr K Bishop, Development Manager, declared a non-pecuniary interest, because of an association with the area because his wife was involved with the Hampton Dene Church Nursery.

Agenda item 9: P141155/F Land adj Stone House, Bromyard Road, Ridgeway Cross, Cradley, WR13 5JN

Councillor GR Swinford declared a Disclosable Pecuniary Interest as his Partnership had acted as Planning Agent. He left the meeting for the duration of this item.

24. MINUTES

RESOLVED: That the Minutes of the meeting held on 25 June 2014 be approved as a correct record and signed by the Chairman.

25. CHAIRMAN'S ANNOUNCEMENTS

There were none,

26. APPEALS

The Planning Committee noted the report.

27. P132028/F LAND AT OVER ROSS STREET, ROSS-ON-WYE, HEREFORDSHIRE

(Demolition of existing buildings and erection of a Class A1 retail foodstore, car parking, new access road, landscaping, associated works and change of use of Overross Garage Showroom Building to Class D2.)

(Councillors Cutter, Durkin and Hardwick declared non-pecuniary interests.)

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 C Utting, of Ross-on-Wye Town Council spoke in support of the Scheme in principle, subject to conditions. Mr P Quinn, a resident, spoke in objection. Mr G Sutton, the Applicant's agent spoke in support.

Whilst the majority of the site was in the Ross East Ward a small portion was in the Ross West Ward. In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillors AM Atkinson, CM Bartrum and PGH Cutter, three of the four local ward members, spoke on the application. It was noted that the fourth local ward member, Councillor RL Mayo, was unable to do so because he had a disclosable pecuniary interest.

Councillor Atkinson commented on a number of issues including:

- He and his fellow ward member Councillor Cutter had made considerable efforts to gauge local opinion. He praised the constructive way in which residents had approached and considered the application.
- The effect on the viability of the Town Centre was a significant consideration. On balance his view was that those people who shopped in the Town Centre would continue to do so rather than shop in a supermarket. The development would therefore not damage existing shops in the Town Centre but would offer more choice to those who wished to shop in a supermarket
- A petrol station had initially formed part of the plans but had been withdrawn. There had appeared to be public support for the competition that would have provided.

- An Aldi store was under construction in the town. It would have been helpful to have been able to assess the impact that had before considering an application for a further supermarket.
- The Morrisons store was overtrading and many felt that it was not a pleasurable shopping experience. There was some popular support for another supermarket. However, there were also people opposed to the application.
- Account needed to be taken of the new housing developments in Ross-on-Wye.
- He was not aware of any other suitable sites for a supermarket within or on the edge of the Town Centre. This meant that any future applications would have to be for an out of Town store.
- He was sceptical of the number of jobs it was claimed the new store would generate, noting the possible impact on the Morrisons Supermarket.

Councillor Bartrum made the following principal points:

- He supported the application, subject to conditions.
- The viability and vitality of the Town Centre was important. In his view those who shopped in independent stores would, however, continue to do so. The Tesco store would be in competition with Morrisons providing choice for residents and visitors.
- The proposed development was close to and had connectivity with the Town Centre. It was preferable to an out of town store.
- The site might be classified as employment land but it provided little employment and was an eyesore. Eight businesses used the site providing 20 jobs compared with the 175 full time equivalent (fte) jobs that the proposed development would provide.
- The Model Farm site also offered 10 hectares of employment land and there were no applicants for it. He did not consider that there was a shortage of employment land in the area.
- He did not consider there was any negative effect on heritage assets.
- In conclusion he considered there were the following key benefits: 175 fte jobs, 300 car parking spaces (which should be free for up to 3 hours whether or not the person shopped at the store), a boost to the local construction industry, increased competition in the supermarket sector, and significant Section 106 contributions.
- He supported the conditions proposed by Ross-on-Wye Town Council as set out in paragraph 5.1 of the report to protect the health of the Town Centre.

Councillor Cutter commented that he would not reiterate the points made by the previous two speakers. He made the following principal points:

- The development offered increased choice.
- He was concerned about highway safety and the traffic implications for Overross and the five ways roundabout. It was necessary to ensure a safe route to school for pupils and if the proposal were to proceed local ward members should be involved in discussions to achieve this aim.
- A Section 106 agreement had not yet been submitted. If the development proceeded benefits for Ross-on-Wye must be secured.
- The effect of the Aldi development would need to be assessed.
- He commented that in his view the site had the potential for residential development, although that was not before the Committee for consideration.

The debate opened and the following principal points were made:

- The imposition of a condition restricting the percentage of non-food goods that could be traded from the new store was discussed. It was suggested that as the argument being advanced was that Tesco would be in competition with Morrisons any restriction should be comparable. A suggestion was made that a restriction to 20% would be appropriate.
- The Principal Planning Officer commented that conditions to restrict the extent to which supermarkets could trade in convenience goods were not uncommon, a restriction to 25% being comparable with other supermarkets. If the application were to be approved this could be discussed further with the applicant's agent and local ward members. He acknowledged that the applicant's agent argued that the store would not have an effect on the Town Centre. However, it was important to note Deloitte's view was that the applicant's assessment underplayed the potential effect on the Town Centre, noting that the trading figures quoted for convenience goods sales density was significantly lower than the company average. The Legal Officer commented that any such conditions restricting trading could not be overly prescriptive or restrictive but were enforceable.
- It was proposed that officers be authorised to approve the application and that details be finalised in discussion with local ward members.
- Housing development in Ross-on-Wye of some 900 homes would generate demand.
- Concern was expressed about highway safety issues at the 'five ways junction', and the A40/A9 roundabout which would be created by the new development and increased by new housing and the model farm development.
- Pedestrian safety needed to be addressed.
- The current and future implications of internet shopping needed to be taken into account.
- The Economic Development Manager had expressed concern about the loss of employment land.
- The number of jobs it was claimed the development would create needed to be treated with some caution. Those jobs that were created by supermarkets tended to be low paid, part-time and did not create wealth. The development should be treated as job neutral.
- The independent advice provided by Deloitte concluded that there was an oversupply of convenience goods floor space in the Town.
- Any detriment to shops in the Town Centre would lessen the Town's attractiveness to visitors.
- There was evidence that Supermarkets on the edge of towns or out of town had an adverse effect on town centres.
- The effect on local supply chains also needed to be considered.

The Development Manager commented that there were no objections to the proposal on highway grounds. The effect of the development on the vitality and viability of the Town Centre was the key issue. Officers considered that in their professional opinion it would have an adverse effect.

The local ward members were given the opportunity to close the debate.

Councillor Atkinson commented that it was clear that there were a number of factors to consider. In conclusion, the public support for the store and the increased choice it would

provide needed to be weighed against the view expressed in the Deloitte report that it would have a detrimental impact on the Town Centre.

Councillor Bartrum welcomed the content of the debate.

Councillor Cutter commented that the view within the Town was divided. He remained concerned about the highway safety issues and the potential impact of large corporations.

A motion that officers be authorised to approve the application and that details be finalised in discussion with local ward members was lost.

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

- 1. The applicant has failed to demonstrate that the proposal would not have a significant adverse impact upon the viability and vitality of Ross on Wye Town Centre contrary to paragraph 26 of the National Planning Policy Framework and Policies S5, TCR1, TCR2 and TCR9 of the Herefordshire Unitary Development Plan 2007.**
- 2. Given reason for refusal 1 above, the Local Planning Authority consider that the proposed development would be likely to adversely affect the character of the Ross on Wye Conservation Area contrary to paragraphs 128 to 133 of the National Planning Policy Framework and policy S7 of the Herefordshire Unitary Development Plan 2007.**
- 3. The proposal would result in the loss of existing employment land. The applicant has not demonstrated that there is a surplus of such land or that removal of the existing use from the site would give rise to substantial benefits to residential or other amenity issues. Furthermore, the proposal is not a minor or incidental activity associated with another use that is compliant with policy. The proposal is therefore contrary to paragraphs 7 and 8 of the National Planning Policy Framework and policies S4 and E5 of the Herefordshire Unitary Development Plan 2007.**
- 4. The proposed development would necessitate a planning obligation compliant with the criteria set out in the Supplementary Planning Document - 'Planning Obligations' to secure contributions toward sustainable transport infrastructure, including enhanced pedestrian and cycle links to Ross on Wye Town Centre, to mitigate against the impact of the development. A completed Planning Obligation has not been deposited and as such the proposal is contrary to Policy DR5 of the Herefordshire Unitary Development Plan 2007 and the Council's Supplementary Planning Document entitled 'Planning Obligations' (April 2008).**

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.**

(The meeting adjourned between 11.30 am and 11.40 am)

28. P141526/O LAND SOUTH OF HAMPTON DENE ROAD, HEREFORD

(Proposed residential development (up to 110 dwellings), access, parking, public open space with play facilities and landscaping.)

(Councillor DW Greenow having declared a disclosable pecuniary interest left the meeting for the duration of this item.. Councillor DB Wilcox and Mr K Bishop declared non-pecuniary interests.)

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 Principal Planning Officer highlighted the updated position on proposed section 106 contributions from the developer and further comment from the Transportation Manager which concluded that the transportation impact of the proposal was considered acceptable, subject to conditions. The update noted that condition 10 in the report relating to junction improvement/off-site works could be deleted.

In accordance with the criteria for public speaking, Mr N White, Chairman of Hampton Bishop Parish Council spoke in opposition to the Scheme. Mrs M Joel, a resident, spoke in objection. Mr K Whitmore, the Applicant's agent spoke in support.

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

He commented on a number of issues including:

- An appeal against non-determination of an earlier application was pending.
- The applicant had originally proposed 95 houses at a public exhibition. The earlier application submitted had been for up to 120 houses. The current application was for up to 110 houses. He did not consider this to be a sufficient reduction and thought a development of between 60-70 houses would be more feasible.
- The development could have a considerable effect upon the highway.
- The Conservation Manager (Landscapes) had stated that the revised application was not materially different from the original one.
- He welcomed the Section 106 agreement proposals.

Councillor JLV Kenyon and Councillor MD Lloyd-Hayes, as adjoining Ward Members, were also invited to speak.

Councillor Kenyon spoke in support of the Scheme welcoming the proposed Section 106 contributions which would enable a number of initiatives he had promoted to the benefit of the community to be delivered. There was local support for the scheme and no one had spoken to him opposing it. The Scheme would deliver much needed housing 35 % of which would be affordable housing. It was of concern that the original application for up to 120 houses was the subject of an appeal and carried with it none of the Section 106 contributions provided for within the revised application.

Councillor MD Lloyd Hayes commented that the housing was much needed. She had received no objections to the application and on balance considered it would benefit both the Tupsley Ward and Hampton Bishop. She hoped that consideration would be given

to providing for different designs of properties within the development, enhanced landscaping and traffic management at the Church Street junction.

The debate opened and the following principal points were made:

Assurance was sought that Hampton Bishop Parish Council's concerns about drainage would be met by the revised proposal and that the requirements of the Land Drainage Officer would be met by the conditions in the recommendation. The Principal Planning Officer confirmed that the conditions would ensure land drainage issues were addressed and the detail would form part of an application at the reserved matters stage.

Account should be taken of the reduction in the number of houses in the Section 106 negotiations and the benefit that would be derived from the proposed Section 106 agreement contributions.

The development was sustainable and in the absence of five-year housing land supply should be approved in accordance with paragraph 14 of the National Planning Policy Framework.

There was support for the Conservation Officer's (Landscapes) objection. However, one view was that this was outweighed by the benefits of the improved, revised application. Another view was that the landscape value was such that the revised application should be refused.

The housing, of which 35% would be affordable housing, was needed and there had been only 7 letters of objection received.

It was requested that the developers provide houses of good design and had regard to future energy costs.

There was a view that the application was an improved scheme and preferable to the previous proposal for the site.

In response to questions about traffic management measures the Area Engineer reiterated the comments in paragraph 4.3 of the report that the traffic impact of the development would not constitute a severe impact and would not form transport grounds for refusal.

It was asked whether approval of the development would set a precedent encouraging development on the perimeter of the City, such growth having to date been resisted where it was outside the City boundary. The Development Manager commented that it would not set a precedent in that each application had to be determined on its merits. However, it was accepted that other developers may refer to permissions that had been granted that they considered relevant.

The local ward member was given the opportunity to close the debate. He commented that the application was an improvement on that previously submitted but it remained a finely balanced decision taking note in particular of the Conservation Manager's comments and the proposed section 106 contributions.

Councillors Kenyon and Lloyd Hayes reiterated their support for the application.

RESOLVED: That subject to the completion of a Section 106 Town & Country Planning Act 1990 obligation agreement in accordance with the Heads of Terms stated in the report, officers named in the Scheme of Delegation to Officers are authorised to grant outline planning permission, subject to the conditions below and any other further conditions considered necessary.

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. **C01 Samples of external materials**
5. **The submission of reserved matters in respect of layout, scale, appearance and landscaping and the implementation of the development shall be carried out in substantial accordance with the Development Framework Plan 5476-L-02 Revision E and the Design and Access Statement dated May 2014.**

Reason: To define the terms of the permission and to conform to Herefordshire Unitary Development Plan Policies S1, DR1, HBA4 and LA4 and the National Planning Policy Framework.

6. **The development shall include no more than 110 dwellings and no dwelling shall be more than two and a half storeys high.**

Reason: To define the terms of the permission and to conform to Herefordshire Unitary Development Plan Policies S1, DR1, H13 and the National Planning Policy Framework.

7. **H06 Vehicular access construction**
8. **H09 Driveway gradient**
9. **H11 Parking - estate development (more than one house)**
10. **H18 On site roads - submission of details**
11. **H19 On site roads - phasing**
12. **H20 Road completion in 2 years**
13. **H21 Wheel washing**
14. **H27 Parking for site operatives**
15. **H29 Secure covered cycle parking provision**
16. **E01 Site investigation - archaeology**
17. **L01 Foul/surface water drainage**
18. **L02 No surface water to connect to public system**
19. **G04 Protection of trees/hedgerows that are to be retained**
20. **G10 Landscaping scheme**
21. **G11 Landscaping scheme - implementation**

22. The recommendations set out in the ecologist's report dated May 2014 should be followed in relation to the identified protected species. 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.

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.

23. The recommendations in relation to biodiversity enhancement set out in Section 4 of the ecologist's report dated May 2014 should be followed unless otherwise agreed in writing by the local planning authority. Prior to commencement of the development, a habitat protection and enhancement scheme should 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 and NC7 of Herefordshire Unitary Development Plan.

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. HN10 No drainage to discharge to highway
3. HN04 Private apparatus within highway
4. HN28 Highways Design Guide and Specification
5. HN13 Protection of visibility splays on private land
6. HN05 Works within the highway
7. HN07 Section 278 Agreement
8. An appropriately qualified and experienced ecological clerk of works should be appointed (or consultant engaged in that capacity) to oversee the ecological mitigation work
9. N11C Wildlife and Countryside Act 1981

29. P141155/F LAND ADJ STONE HOUSE, BROMYARD ROAD, RIDGEWAY CROSS, CRADLEY, WR13 5JN

(Proposed single storey dwelling with detached double garage.)

(Councillor GJ Swinford having declared a disclosable pecuniary interest left the meeting for the duration of this item.)

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, Mr R Page, the Applicant's agent spoke in support of the application.

Members supported the view of officers set out at paragraph 6.22 of the report that the application was not compliant with paragraph 55 of the National Planning Policy Framework.

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

1. **The proposal represents unjustified unacceptable unsustainable residential development in an open countryside location contrary to Herefordshire Unitary Development Plan Policies S1 and H7 and the sustainable development aims and objectives of the National Planning Policy Framework.**
2. **The proposal is not considered to be of sufficient outstanding merit to warrant a departure from Herefordshire Unitary Development Plan Policies S1 and H7 and fails to meet the criteria of paragraph 55 of the National Planning Policy Framework.**
3. **The proposal represents an unacceptable risk to highway safety and the free flow of traffic through having substandard visibility at its access onto the B Class road, contrary to Herefordshire Unitary Development Plan Policies DR1, DR2, DR3 and T8 and the relevant aims and objectives of 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.**

30. P141369/F LODGE BUNGALOW, LUGWARDINE COURT ORCHARD, LUGWARDINE, HEREFORDSHIRE

(Proposed removal of conditions 6 and 7 and variation of condition 8 of planning permission DMS/110566/F (Demolition of existing bungalow and erection of new bungalow and garage block, construction of drive area and landscaping) to allow removal of Yew Tree and to facilitate excavation, consolidation, surfacing, tarmac area and drainage of the driveway.)

The Development Manager 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 paragraph 4.8.2.2 of the Council's Constitution, Councillor DW Greenow, the local ward member, spoke on the application.

He commented that the applicant had initially been given to understand by the Council that the Yew Tree to which the application before the Committee referred would be removed. The tree was impeding the applicant in implementing the planning permission that he had been granted. He should be permitted to remove it.

The debate opened. The applicant's frustration was acknowledged. Some Members considered that there were grounds for removing the tree because it impeded the applicant's access. Others considered that there was not sufficient evidence to justify the tree's removal. The offer of a replacement tree was noted.

The Legal Officer advised the Committee that it was required to determine the matter having regard to material planning considerations and not the history of land ownership and the quality of communication in relation to the site in the past. She confirmed that if the Committee was minded to remove the conditions of the planning permission the Tree Preservation Order would be rendered ineffective. The Committee needed to decide whether there was evidence to support a view that removal of the tree was necessary in order for the planning permission to be implemented.

The Conservation Manager outlined some of the background to the issue and the reason why conditions had been imposed at the time of the application protecting the Yew Tree and why a Tree Preservation Order had subsequently been served. She commented that one of the conditions permitted cutting of the tree canopy to a height of 2.5m which would allow vehicle access to the development site.

The Development Manager commented that the Council as Highway Authority had given an assurance prior to the submission of a planning application that the Yew Tree would be felled. This work had not taken place once it transpired that land ownership was in doubt. The conditions requiring the tree's retention had been applied when planning permission for the development had been granted. He added that there was a secondary access to the site that had been used during construction work.

The local ward member was given the opportunity to close the debate. He commented that the applicant could not access his property normally and that lifting the canopy of the tree would not be sufficient. His view was that the application should be approved.

A motion that the application be refused in accordance with the recommendation in the report was lost.

The Committee supported a condition requiring a suitable replacement for the yew tree to be found, to be determined in consultation with the local ward Member.

RESOLVED: That, having regard to access constraints, conditions 6 and 7 of planning permission DMS/110566/F be removed and condition 8 varied to allow removal of a Yew Tree on the site, subject to a condition that a suitable replacement for the yew tree to be found, to be determined in consultation with the local ward member.

Informative

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.

31. DATE OF NEXT MEETING

The Planning Committee noted the date of the next meeting.

Appendix 1 - Schedule of Committee Updates

The meeting ended at 1.45 pm

CHAIRMAN

PLANNING COMMITTEE

Date: 16 July 2014

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.

SCHEDULE OF COMMITTEE UPDATES

P132028/F - DEMOLITION OF EXISTING BUILDINGS AND ERECTION OF A CLASS A1 RETAIL FOODSTORE, CAR PARKING, NEW ACCESS ROAD, LANDSCAPING ASSOCIATED WORKS AND CHANGE OF USE OF OVERROSS GARAGE SHOWROOM BUILDING TO CLASS D2 AT LAND AT OVER ROSS STREET, ROSS-ON-WYE, HEREFORDSHIRE

For: Tesco Stores Limited per DPP Sophia House, 28 Cathedral Road, Cardiff, CF11 9LJ

ADDITIONAL REPRESENTATIONS

The applicant's agent has noted that the description of the proposal has incorrectly described the proposed change of use of Overross Garage to a meeting hall for the Sea Cadets as D2 whereas it is in fact sui generis.

Further correspondence has also been received and is re-produced below:

It is both surprising and disappointing that nowhere in the description of the proposal (Paragraphs 1.6-1.9) or in either the Economic Development Managers Comments (paragraph 4.14) or the Officer's Appraisal (Paragraph 6.5) is there any reference to the 175 full time equivalent jobs that would be created by the Tesco proposal. This represents a serious omission, as does the lack of any reference in the report to the very sharp contrast with the current 20 full-time equivalent on-site jobs. Furthermore, nowhere in the Report are Members advised of Tesco's commitment to recruit locally, wherever possible. In order for Members to undertake the necessary planning balance, it is essential that they are fully and properly advised of the economic benefits associated with Tesco's proposal. The report demonstrably fails in this very important respect and therefore there is an urgent need to remedy this serious shortcoming.

Paragraph 2.1 focuses on the National Planning Policy Framework ("NPPF") but nowhere in this synopsis is there any reference to the relevant provisions in the national guidance which encourage LPA's to "work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area". We feel very strongly that since late January this year, when the first and only meeting was held with you as case officer, our many requests to meet with relevant officers in order to discuss both technical issues and Section 106 matters, have been denied. Furthermore, where we have been provided with objections and copies of advice provided to the Council, we have rarely been provided with copies of the relevant responses in advance of the Committee Report's publication. We do not feel, therefore, that officers have acted positively and proactively in progressing Tesco's regeneration proposal, contrary to the NPPF's advice. I would add that Ward Members are aware of our continued frustration at attempting but failing to engage with relevant Officers

Paragraph 4.14 refers to one former business that has moved from Ross and consolidated its operation in Gloucester. For the avoidance of doubt, this business' representation in Ross was restricted to a single part-time position and the parent company recently decided to consolidate its business operation in Gloucester where its main business operation is based. The reference that "businesses are also looking at locations outside of the County",

should appropriately be seen in this light. This Paragraph also states that no information has been supplied by DPP concerning the relocation plans of the remaining eight businesses on site. This is simply because the businesses, which provide just 20 full time equivalent jobs, are keeping their options open and have yet to decide if, and to where, they wish to relocate. I can confirm that relocation, should it be necessary, is not seen as presenting a difficulty.

Paragraphs 5.1 – 5.10 set out the representations both ‘against’ and ‘for’ the application. However, whereas the objections submitted on behalf of Morrisons and The Maltings are presented in some detail, namely 26 bullet points, none of the detailed rebuttal to these objections provided by DPP is presented to the Planning Committee. This represents a serious omission which effectively means that Members have not been provided with the relevant information they require in order to undertake the planning balance. I would add that nowhere in Paragraph 5.10 “Economic Factors”, which is a synopsis of two of our most recent written submissions, is there any material relating to our rebuttals of the aforementioned objections. The Report is, therefore, demonstrably unbalanced in this important respect, and Members should be advised of this serious concern raised on behalf of the applicant.

Paragraph 6.1 lists the matters on which Deloitte’s advice was sought by the Council. The Report omits any reference to our written submissions which challenge the extent to which Deloitte have fully and properly advised on these matters. For example, nowhere in the advice provided do Deloitte identify “the degree to which Morrisons is overtrading and the likely scale of trade diversion from it and other town centre units”. Similarly, and cause for even greater concern, Deloitte do not provide any estimate whatsoever of the level of trading impact they consider the proposal will have on the town centre. This falls seriously far short of the requirement to provide clear and compelling evidence of a significant adverse effect, the relevant NPPF test.

Whilst Paragraph 6.2 sets out Deloitte’s 2012 retail capacity estimates, nowhere in the Report is there any reference to our Retail Capacity Note provided to Officers in February 2014 which, inter alia, highlights several serious shortcomings in the Deloitte assessment. This too is a material consideration which Members have not been advised of.

Paragraph 6.2 also contends that “the applicant has not satisfactorily explained why a lower (turnover) figure has been used”. This is plainly wrong, as we have provided in at least two written submissions, a reasoned justification for our turnover estimate, which is endorsed by Tesco. With regard to the contrasting forecast turnovers of the two proposed Tesco stores at Ross and Bromyard, major factors determining the former are the ‘head to head’ competition with the adjacent Morrisons store and the likely effect of the Asda store at Cinderford.

Paragraph 6.2 also questions our turnover estimate for Morrisons and, by inference, our Sainsbury’s estimate. Members should be advised that consultants acting for Morrisons have not challenged our turnover estimate. Members should also be advised that HOW Planning act on behalf of The Maltings and not Sainsbury’s. Furthermore, HOW’s submission in this regard is hearsay and no written substantive evidence has been provided to counter our turnover estimate that is derived from the independent household survey.

Paragraph 6.2 refers to Deloitte’s concern that DPP has not considered the likely trading consequences of the two consented Asda stores at Cinderford and Lydney. This is incorrect and it is essential that this error is rectified and Members advised accordingly. Our submitted retail assessment expressly refers to the potential impact of the Cinderford store on Morrisons, noting that should the Morrisons store face competition from both Tesco in Ross and Asda in Cinderford, its post-impact turnover would be further reduced to a level broadly comparable to that of the new Tesco store. Furthermore, as the Lydney store is widely acknowledged as serving a more remote, different catchment, it would not be likely to

materially affect expenditure flows to stores within Ross town centre, as evidenced by the shopping patterns identified by the relevant household survey findings.

Perhaps our greatest concern with Paragraph 6.2 is the reference to “the shortcomings identified by Deloitte and others in the accuracy of the (DPP) retail assessment cast significant doubts over its projected impacts on the town centre”. As indicated above, we have robustly responded to the objections submitted by third parties and the advice given by Deloitte to the Council, but nowhere in the report is there any reference to our written rebuttals. This represents a serious omission, and we would challenge Officers to clearly state what the inaccuracies are in our retail assessment and advise Members accordingly. Furthermore, it is essential that Officers identify which of our assumptions, for which we have provided justification, they are challenging. It is simply not sufficient to reject an assumption without providing a reasoned justification. Moreover, as Officers consider our estimated impact levels to be too low, what level of unacceptable impact have they identified that would warrant setting aside the ‘presumption in favour’ embodied in the NPPF and withholding planning permission? It is essential in our view that Members are clearly advised as to the level of impact Officers believe the Tesco proposal would have on Ross town centre.

Paragraph 6.2 advises Members that the two new Asda stores in the Forest of Dean “will undoubtedly reduce the amount of trade” attracted to the town centre and, as a consequence, local residents’ expenditure will be spread more thinly. This in turn is seen as reducing the profitability of all convenience retailers in the town centre, particularly the smaller independent retailers which are seen as being less able to absorb such loss of profitability. Importantly, this unquantified loss of trade is equated to a “significant adverse effect”. Neither Deloitte nor the Officers have considered the relevant household survey findings and how much trade they believe the two Asda stores would attract from Ross town centre. The key issue for Members is not whether a store in the Forest of Dean would divert trade from Ross, but how much trade would be likely to be lost and by whom, and what would be the likely effect based on evidence “on the ground” of the centre’s vitality and viability? Furthermore, a reduction in turnover/profitability does not equate to a “significant adverse effect” and, importantly, no evidence whatsoever is presented to Members to support the Report’s inference that small independent stores will close because of their inability to absorb an unquantified trade loss that Deloitte and Officers believe would arise. The conclusion and advice to Members that “the proposal would have a significant detrimental effect on the vitality and viability of the town centre” is not substantiated by any evidence whatsoever and therefore cannot be relied upon as a sound and compelling basis for a refusal of planning permission. Moreover, nowhere in the Report is there any evidence that either Deloitte or the Officers have undertaken any kind of ‘health check’ of the town centre as a pre-requisite to assessing the likely effect of the proposed store. This too represents a serious omission and, as such, Members have not been provided with any evidence whatsoever regarding the current ‘health’ of the town centre, a very important material consideration in any planning balance of a proposal’s likely impact. I would add that nowhere in the Report is there any suggestion that the Tesco proposal would materially harm the town centre’s comparison goods retailers. This is also an important material consideration which Members should be advised of accordingly.

In Paragraph 6.3, which addresses sequential testing, Members are advised that “pedestrians would be required to navigate a busy road junction....and at some point cross the steep railway embankment that runs along the southern boundary of the site”. This is potentially very misleading for Members. No mention is made in Paragraph 6.3 of our proposed pedestrian crossing on Millpond Street, which would facilitate safe and convenient pedestrian movement. Furthermore, the proposed pedestrian link will not require pedestrians to cross the steep railway embankment, which clearly implies major and inconvenient changes in levels that would militate against the route being used. Members should be properly advised to this effect and, moreover, that the pedestrian link construction will comply with both Part M and Part K of the relevant Building Regulations. It should also be

noted that the proposals were amended at pre-application stage in specific response to Officer recommendations of the preferred pedestrian link route.

In Paragraph 6.4, which addresses linked shopping trips, Tesco's willingness to accept a planning restriction on in-store "ancillary uses" is simply set aside and afforded no weight whatsoever in the planning balance. This has previously been identified by third parties and Officers as a material consideration, which has not been properly and reasonably presented to Members.

In Paragraph 6.4 Members are advised that because there is no visual link between the site and the town centre, this represents a significant constraint that will limit linked shopping trips because "pedestrians will have no perception of the necessary walking distance". The vast majority of local residents clearly know the site's location relative to the town centre and, for those that do not initially, there would be appropriate signage. The advice presented to Members is misleading and, moreover, it is seriously at odds with the advice provided to the Council in which Deloitte confirm that any loss of linked shopping arising from Morrisons shoppers switching to Tesco, will be offset by new linked trips to the town centre associated with new shoppers attracted to Ross by the Tesco store. This clearly demonstrates that Deloitte believe the Tesco store is capable of generating a substantial number of new linked shopping trips with associated spin-off economic benefits for the town centre. This is a very important acknowledgement which should be reported to the Planning Committee. Importantly, however, this represents an under estimate of likely linked shopping trips as Deloitte's view is predicated on Morrisons shoppers who currently link trip and who switch to Tesco, not undertaking any linked shopping whatsoever following their switch. Common sense dictates that this is unrealistic and, as such, one could reasonably expect a net gain in linked shopping trips. The above view expressed by Deloitte is an important material consideration that Members should be advised of. We have identified a number of serious shortcomings in the Committee report presented to Members to assist them in their determination of Tesco's major inward investment and development proposal. It is essential that Members are properly informed in relation to these important material considerations and, as such, we trust that you will respond fully to the points raised and advise Members accordingly.

Further correspondence has been received from Peacock and Smith Planning Consultants on behalf of Morrisons. They reiterate their concerns about the retail impacts of the development. They consider that the reduction in the convenience turnover of the town of £2.58m; which equates to a 12.1% impact, is high. They also consider that the £11.67m or 32.1% impact on their clients business is similarly high and that the result will be to significantly reduce footfall in the town centre to the detriment of its vitality and viability.

A further response has been received from the Council's Transportation Manager which refers specifically to the methodology used by the applicant's highway consultant to calculate the S106 contributions. The methodology is acceptable, except for the amount of transferred trips from Morrisons and Sainsburys, and the Aldi that is currently under construction. The methodology uses a 72% discount.

It is recognised the store will generate 7,264 vehicle movements and, with a calculation based on 28% new trips the applicant's highway consultant proposes a S106 contribution for highway improvements of £225,000.

However, the Transport Assessment suggests that only 39% of trips will be transferred from the existing stores. Taking this figure into the calculation will equate to £704,030.

Without a sound, logical rationale for a 72% discount rate, the Council's Transportation Manager recommends that the figure in the Transport Assessment is used to calculate S106 contributions.

The schemes identified for inclusion in the S106 are:

- Traffic Calming and improvements to Alton Street, Kent Avenue and Walford Road to mitigate additional traffic in peak times
- As 6.2.6 of the TA upgrade of public rights of way in the vicinity of the store
- Improvements to the public transport service
- Due to the additional traffic in the vicinity of the site, provide a cycle / footway NW of Ledbury Road
- Infrastructure improvements not covered by the Section 278, to include dropped crossings, and improvements on Brampton Street

Three additional letters of representation have been received. The matters raised reflect those outlined in the officer's report and do not give rise to any new issues that have not previously been covered.

Three additional letters of support have been received, but again no new issues are raised to those outlined in the officer's report.

Correspondence has also been received from The Ross Town Plan Progress Group outlining their ideas for the uses of monies accrued through the completion of a Section 106 Agreement should planning permission be granted. These include funding for a Town Centre Manager, affordable housing, a cinema and investment in a community building.

OFFICER COMMENTS

The description of the proposal is amended in accordance with the applicant's agents comments. The proposed change of use of the garage is not a crucial matter in the determination of the application. No objections have been raised in this regard and it is not considered that the description of the use by the Sea Cadets as D2 under the Use Classes Order has in any way prejudiced the determination of the application.

With regard to the most recent submission made by the applicant's agent, your officers are content that the level of information contained within the report is sufficient for the Planning Committee to make a balanced and rational assessment of the proposal. The retail assessment submitted with the application has been independently reviewed by Deloitte; their remit was not to provide a further retail assessment of the proposal. Their advice is clear:

Despite its relative health, there can be no doubt that Ross-on-Wye is vulnerable to the changes in retailing that are taking place and to which we have referred in the DJD Study 2012. We therefore have concerns that introduction of a second large foodstore in Ross-on-Wye of the size proposed outside the town centre could significantly undermine the shopping role and function of the town centre.

NO CHANGE TO RECOMMENDATION

P141526/O - PROPOSED RESIDENTIAL DEVELOPMENT (UP TO 110 DWELLINGS), ACCESS, PARKING, PUBLIC OPEN SPACE WITH PLAY FACILITIES AND LANDSCAPING AT LAND SOUTH OF HAMPTON DENE ROAD, HEREFORD

For: Gladman Developments Ltd per Planning Prospects Limited, 4 Mill Pool, Nash Lane, Belbroughton, Worcestershire DY9 9AF

**ADDITIONAL REPRESENTATIONS
S106 Contributions**

The report identifies contributions falling into three broad subject headings:

- 1) Education
- 2) Off-site highway improvements
- 3) Off-site play

A level of contribution has now been agreed for all three.

1) Education

A contribution of **£277,000** has been agreed towards primary and secondary schools, to be spent according to need at the time. The primary schools are Mordiford, St Pauls and Hampton Dene. The secondary is Bishops.

2) Off-site highway improvements

A contribution of **£250,000** has been agreed towards off-site highway improvements. This is a change in the approach as set out in the Committee Report whereby the developers were to assume responsibility for delivering the three projects identified at 6.32 of the report. It is now intended that the applicant contribute £250,000 for expenditure towards these and other localised highway improvement projects to be spent in accordance with a prioritisation scheme drawn up with Ward and adjoining Member and Highway Authority input.

3) Off-site play

As per the report a contribution of **£68,460** towards off site sports pitch provision has been agreed. This was identified for expenditure at Aylestone Park. It has now been agreed that a degree of flexibility can be included in the S106 to allow for a proportion of the money to be directed to the Quarry Recreation Area, which is more local to the application site.

The overall contribution would amount to circa £600,000, which is a significant contribution when one considers that the scheme would also deliver 35% affordable housing.

Transportation Manager – Accident Record update

The amended Transport Assessment has not updated the 5 year accident history for Hampton Dene Road to cover the period to 31 March 2014.

Since submission there have been two further personal injury accidents in the length referred, both at Church Road roundabout - one slight in 2013, the other in April this year sadly fatal.

In respect of the likely impact of the proposed development upon this particular junction, the proportionate increase in total traffic inflow at the roundabout in the 2019 AM peak is 10 vehicles as compared to an overall junction inflow of 805 vehicles, equating to a small percentage increase (1.2%) and on average one vehicle every 6 minutes. In the 2019 PM peak the development figure is 11 of an overall inflow of 512, equating to 2.1% of the total inflow. It is not considered that this will have a material impact on the operation of the roundabout.

As confirmed in respect of the previous application, the transportation impact is considered acceptable and my recommendation is for approval subject to conditions.

The applicant has provided a rebuttal to the Conservation Manager's comments in relation to the impact of the development on the setting of the Grade II listed Meadow Cottage and the unregistered parkland associated with Hampton Dene House. These are reproduced below.

Impact on Meadow Cottage

The special interest of Meadow Cottage largely arises through its construction, the style of which is largely characteristic of this part of the country. The CgMs assessment recognises that the proposed development would alter the wider setting of Meadow Cottage. However, based on the English Heritage guidance "the Setting of Heritage Assets" (2011), the assessment concluded that the application site is not considered to be an essential or particularly significant element of the listed buildings setting, and the house will remain embedded within the small woodland, which forms the dominant component of its setting. The view from the application site towards Meadow Cottage is not considered an important part of the setting of Meadow Cottage. We remain of the view that the proposed development would not materially affect the setting or significance of this listed building.

Hampton Dene Landscape Park

Cartographic evidence shows that the northern section of the application site did not form part of the formal or landscaped gardens of Hampton Dene House, but represented an element of its landscape park. By 1928, this area has clearly been segregated from the principle garden of Hampton Dene House. The southern boundary of this former landscape park was removed sometime after 1928 and was absorbed into the surrounding agricultural landscape. There are no surviving or visible attributes associated with this landscape park which would have been a minimally managed area of open ground. There are no significant remains of this park or indeed the site's physical former association with Hampton Dene. This asset is of local significance and its former association with Hampton Dene is no longer evident. Rather, it simply forms part of the agricultural land to the south of the house. As such, we remain of the view that there will be no material harm to the significance of this asset.

OFFICER COMMENTS

The principal amendments when compared against the scheme now at appeal are a reduction in the number of dwellings from 120 to 110 and enhanced landscaping on the eastern boundary against the Lugg Meadows.

Since the publication of the report, however, significant progress has been made towards finalising the terms of the S106 agreement, such that the overall contribution is in the region of £600,000. This, alongside the contribution that the scheme makes towards the provision

of affordable housing and a wider breadth of open market housing, is a significant material consideration to be weighed in exercising the planning balance.

It is envisaged that the contribution towards off-site highway improvements could be used, in part at least, to more effectively manage school traffic on Hampton Dene Road.

NO CHANGE TO RECOMMENDATION

Due to the change in approach to the delivery of off-site highway improvements proposed condition 10 can now be deleted. Otherwise, with regard to the published report and the foregoing update, there is no change to the recommendation.

P141155/F - PROPOSED SINGLE STOREY DWELLING WITH DETACHED DOUBLE GARAGE AT LAND ADJ STONE HOUSE, BROMYARD ROAD, RIDGEWAY CROSS, CRADLEY, WR13 5JN

For: Mr & Mrs Cross per The PageSwinford Partnership, Bodkin Hall, Edwyn Ralph, Bromyard, Herefordshire, HR7 4LU

ADDITIONAL REPRESENTATIONS

Cradley Parish Council makes the following comments –

In principle the Parish Council approve of the idea of a house being built on the site, but are very unhappy about the proposed design.

OFFICER COMMENTS

The Report sets out Officers' appraisal of the unacceptability of the application site for residential development in accordance with local and national planning policies and sustainable development aims and objectives, however the Parish Council's comments regarding design reinforce Officers' position and application of relevant design policies in the local plan and NPPF.

NO CHANGE TO RECOMMENDATION

P141369/F - PROPOSED REMOVAL OF CONDITIONS 6 AND 7 AND VARIATION OF CONDITION 8 OF PLANNING PERMISSION DMS/110566/F (DEMOLITION OF EXISTING BUNGALOW AND ERECTION OF NEW BUNGALOW AND GARAGE BLOCK, CONSTRUCTION OF DRIVE AREA AND LANDSCAPING) AND S/112561/F (MINOR MATERIAL AMENDMENT TO APPROVAL NUMBER DMS/110566/F. ENLARGE GARAGE BLOCK TO PROVIDE AREA FOR GROUND SOURCE HEAT PUMP EQUIPMENT) TO ALLOW REMOVAL OF YEW TREE AND TO FACILITATE EXCAVATION, CONSOLIDATION, SURFACING, TARMAC AREA AND DRAINAGE OF THE AT LODGE BUNGALOW, LUGWARDINE, HEREFORDSHIRE, HR1 4AE

For: Mr & Mrs Mason Middle Court, Lugwardine, Hereford, Herefordshire HR1 4AE

ADDITIONAL REPRESENTATIONS

One further email has been received from Mr Wilson, a Lugwardine Parish Councillor:

Having had the opportunity to read your report on the above application, I would be grateful if you would address the following inaccuracies through the update for committee members please:

1. Para 1.4 According to the Planning Inspectorate's report the appeal was dismissed in 2013 not 2012. (See para 3.1)
2. Para 4.2, sub-section "Background" 2nd para, How can the Conservation Manager state that "it is considered that the tree is a feature of the **vestigial parkland** associated with Lugwardine Court and as such has historic landscape value", when it is the only conifer in evidence in the parkland. The parkland is otherwise totally broad leaved. It is more likely to be a tree from rogue seed carried from the Churchyard not far away.
3. Para 4.2, sub-section "Background" 4th para, How can the Conservation Manager state that the yew was a **SITE** feature when the Planning Officer had stated, on the 18th April 2011, on behalf of the Council that the yew was not on Highways land and was **OUTSIDE** the application boundary on land of an unknown owner?
4. Para 4.2, sub-section "Assessment of the reasons....." – Reason 3 How can the Conservation Manager state that this is not relevant?... in para 83 there is a clear exception that states "*The authority's consent is not required for carrying out work on trees subject to an Order so far as such work is necessary to implement a full planning permission*"
5. Para 6.4 The first temporary TPO was served on 25th May 2011 and lapsed on 24th Nov 2011 through lack of action, save that of the Conservation section

informing the applicant that he was in a Conservation Area! The Conservation Area lies on the far side of the School playing fields. A second temporary TPO was served on 10th December 2011 and again through lack of action lapsed on 9th Jun 2012. The TPO was eventually confirmed on 19th June 2012. The TPO and appeal decision are not “material considerations” as they apply to a tree outside the application site boundary that the conditions apply to and the TPO was only put in place **AFTER** the application was approved.

6. Para 6.7 It is very obvious that, without “*evidence from a suitably qualified consultant*”, a tree with an 8m crown will have a root protection area across the full 4m width of the drive. Thus condition 8c & d preclude the access for the construction of the drive & access of equipment and vehicles to do all of the site ground work. The 3 conditions conflict with each other.
7. Para 6.8 The conditions of the application in question were “*attached to a planning permission where they do not relate to land within the control of the applicant. Such conditions would be regarded as unenforceable and would not pass the test set out in Planning Practice Guidance*” It is unacceptable to retrospectively include additional land in the site boundary regardless of whether or not the applicant has subsequently acquired it. The triangle of land should be “blue lined” as in “ownership “ of the applicant.
8. Para 6.9 My para 4 refers. The guidance is relevant. The TPO stands on its own and therefore it and its appeal result are not relevant to the application and should therefore not be given “significant weight” in the decision making process.
9. Para 6.10 Contrary to the assertions of the Conservation Manager, whilst the yew is a very long lived species, it is far from slow growing in its early years. It is actually renowned for the speed with which it establishes itself and grows in its early years.
10. Map The red line is incorrect. The triangle of land shown in grey should be “blue lined” as in “ownership “ of the applicant and not in red denoting the application boundary.

OFFICER COMMENTS

In response to the points raised by the Parish Councillor the following comments are made:

1. The appeal decision was issued in 2013 and not 2012 as referred to in para 1.4
2. This is a matter of subjective assessment and is a point supported by the Inspector who dismissed the TPO appeal commenting that the yew tree contributed to the setting of Lugwardine Court.
3. The point being raised here is not about ownership but rather the value of the tree as a feature in the locality.
4. The advice put forward by your Officers is that the granting of planning permission does not necessitate the carrying out of works to the tree beyond that permitted by condition 7 of the permissions. The guidance referred to relates to the revoking and varying a TPO, not conditions there are 2 distinct processes involved.
5. It is considered that the TPO stands alone and as such is a material consideration. Furthermore the applicant controls the land upon which the yew tree is located.

6. Technical advice from the Conservation Manager clarifies that it would be possible to construct the driveway whilst maintaining the yew tree
7. Officers maintain that since the land in question is in the control of the applicant that the conditions are enforceable.
8. Officers maintain that the TPO and the appeal decision are material considerations that favour the retention of the conditions.
9. It is the time that it would take the new tree to grow to the size of the existing tree that is the relevant consideration not the initial growth rate
10. The applicant controls the relevant land and as such whether it was within the red line or blue is not considered relevant.

The advice from the Conservation Manager is clear that there is no technical reason why the planning permission cannot be implemented without felling the Yew tree and therefore no necessity to fell the Yew tree. As such the TPO will remain in force to restrict any works beyond the permitted lifting of the crown to a uniform 2.5 metres. Accordingly there is no change to the recommendation

NO CHANGE TO RECOMMENDATION

MEETING:	PLANNING COMMITTEE
DATE:	6 AUGUST 2014
TITLE OF REPORT:	APPEALS

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 133173/F

- The appeal was received on 2 July 2014
- 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 TJ Parry
- The site is located at Burnt Mill, Hampton Wafre, Docklow, Leominster, Herefordshire, HR6 0SN
- The development proposed is Erection of two Gaia 133 11kW turbines on 27m tubular towers - 33.5m height to blade tip.
- The appeal is to be heard by Written Representations

Case Officer: Mr A Prior on 01432 261932

APPEALS DETERMINED

Application 131908/F

- The appeal was received on 31 March 2014
- 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 The Co-Operative Estates
- The site is located at Co-operative Foodstore, 77 Holme Lacy Road, Hereford, Herefordshire, HR2 6DF
- The development proposed was Variation of Condition 6 of planning permission CE2001/2182/F (Demolition of existing co-op store and 2 No. dwellings. Construction of single storey supermarket and 1 No. 2 storey detached house) – To allow deliveries on Sundays, Bank holidays and Public Holidays between 08:00 and 18:00.
- The main issue was:- the effect of the proposed extension in times for the loading and unloading of service and delivery vehicles on the living conditions of neighbouring residents in terms of noise and disturbance

Decision:

- The application was Refused under Delegated Powers on 2 October 2013
- The appeal was Dismissed on 7 July 2014

Case Officer: Mr E Thomas on 01432 260479

Application 132145/F

- The appeal was received on 11 February 2014
- 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 The Brockhampton Estate
- The site is located at Parlours Barn, Brockhampton, Herefordshire
- The development proposed was Conversion of a redundant farm building to provide office
- The main issue(s) were: (i) whether, given its rural location, the proposal would amount to sustainable development; (ii) is the adequacy of the highway network, in terms of highway safety. (iii) is effect of the proposed conversion works on the building's character and appearance.

Decision:

- The application was Refused under Delegated Powers on 30 October 2013
- The appeal was Allowed on 7 July 2014
- An Application for the award of Costs, made by the Appellant against the Council, was Dismissed

Case Officer: Mr R Close on 01432 261803

Enforcement Notice 132779/ENF

- The appeal was received on 10 October 2013
- 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 NJ & IE Cockburn
- The site is located at Pennoxstone Court Farm, Kings Caple, Herefordshire, HR1 4TX
- The breach of planning control alleged in this notice is: without planning permission, unauthorized siting of polytunnels
- The requirements of the notice are: remove all unauthorized polytunnels and associated structures including polytunnel covers, leg rows, interlinking arched hoops, end kits and any combination thereof from fields.
- The main issue(s) were: the effect of the development on the character and appearance of the Wye Valley Area of Outstanding Natural Beauty (AONB), with particular reference to the scale of the proposal, and its impact on the social and economic well-being of the area and, if there is any identified harm, whether this

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

would be outweighed by any other material considerations, to the extent that planning permission should be granted for the development

Decision: The Enforcement appeal had a Split Decision on 11 July 2014

Case Officer: Mr M Tansley on 01432 261815

Application 100966/F

- The appeal was received on 6 November 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 NJ & IE Cockburn
- The site is located at Pennoxstone Court Farm, Kings Caple, Herefordshire, HR1 4TX
- The development proposed was Application (part retrospective) to erect, take down and re-erect, take down and re-erect polytunnels, rotated around fields as required by the crops under cultivation (soft fruit).
- The main issue(s) were: the effect of the development on the character and appearance of the Wye Valley Area of Outstanding Natural Beauty (AONB), with particular reference to the scale of the proposal, and its impact on the social and economic well-being of the area and, if there is any identified harm, whether this would be outweighed by any other material considerations, to the extent that planning permission should be granted for the development

Decision:

- The application was Refused on 24 April 2013
- The appeal was Split Decision on 11 July 2014

Case Officer: Mr M Tansley on 01432 261815

Application 140070/FH

- The appeal was received on 29 May 2014
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Planning Permission (Householder)
- The appeal was brought by Mr Paul Lewis
- The site is located at Box Cottage, Little Cowarne, Bromyard, Herefordshire, HR7 4RQ
- The development proposed was the reduction in length and increase in pitch of the roof of the the outbuilding and construction of a link block between the outbuilding and existing dwelling.
- The main issue(s) was: the effect of the proposed extension on the character and appearance of Box Cottage and the surrounding area.

Decision:

- The application was Refused under Delegated Powers on 14 March 2014
- The appeal was Dismissed on 22 July 2014

Case Officer: Mr A Prior on 01432 261932

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



MEETING:	PLANNING COMMITTEE
DATE:	6 AUGUST 2014
TITLE OF REPORT:	<p>P133401/F - ERECTION OF 4 NO. BROILER BUILDINGS, AGRICULTURAL STORAGE BUILDING, 2 NO. CONTROL ROOMS, 10 NO. FEED BINS, HARDSTANDING AND ACCESS IMPROVEMENTS AND DRAINAGE ATTENUATION POND AT LAND SOUTH OF PENRHOS FARM, LYONSHALL, KINGTON, HR5 3LH</p> <p>For: Mr Williams per Mr Ian Pick, Llewellyn House, Middle Street, Kilham, Driffield, YO25 4RL</p>
WEBSITE LINK:	https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=133401&search=133401

Date Received: 10 December 2013 **Ward: Pembridge and Lyonshall with Titley** **Grid Ref: 331120,256135**

Expiry Date: 14 March 2014

Local Member: Councillor RJ Phillips.

1. Site Description and Proposal

- 1.1 The site is located in open countryside, is relatively flat and forms part of an arable field, surrounded by agricultural land in the control of the applicant. To the north east of the site is Penrhos Court, this is situated approximately 410 metres away. Otherwise the site is surrounded by native field hedgerows and within the surrounding vicinity are small woodland copses. There are no dwellings immediately adjoining the site, however there are various dwellings dotted around in the surrounding landscape, and in particular alongside the A44 situated to the north of site. Access to the site is from the A44 along a stone track and adjacent fields also in the applicant's control.
- 1.2 The application proposes the construction of four broiler units, each measuring 109.7 metres long by 20.116 metres wide with an eaves height of 2.6 metres and a ridge height of 5.2 metres for the housing of up to 180,000 broiler chicks. The application also proposes associated infrastructure to include 10 feed bins, hard standing, storage room, incorporating a biomass boiler fed with woodchip, and an attenuation pond. Access to the site is directly from the A44 utilising an existing farm track, that entails the creation of a new entrance from the highway onto the track in order to provide improvements to the visibility splays.
- 1.3 A screening opinion in accordance with Environmental Impact Assessment Regulations 1999 dated 18 July 2011 carried out by the Council established that a proposed development on site for intensive poultry development for up to 170,000 broilers within five separate building units was EIA schedule 1 development and therefore an Environmental Statement (ES) was required with any formal application for the proposed development.

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

- 1.4 A revised screening opinion in accordance with Environmental Impact Assessment Regulations 2011 in relationship to the application, (ref: P133401/F), for the erection of 4 broiler buildings, associated storage building, 2 number control rooms, 10 number feed bins, hard standing and access improvements and drainage attenuation pond for housing of up to 200,000 broilers dated January 10th 2014 also established the development as EIA development, therefore an ES in support of the application was mandatory.
- 1.5 The application is accompanied by an (ES) and set of elevation and floor plans. Further information on flood risk, drainage and odour issues were received in support of the application. Later an amended ES was received along with an amended design and access statement and odour report.
- 1.6 The application is presented to the Committee for consideration as a previous approval for development on site dated 10th March 2014 was subsequently quashed in the High Court on 25 April 2014. The Council did not contest the request for judicial review, deciding not to challenge, because it became evident that a few minor updates in support of information submitted by the applicant during the application's processing had not been published in the local newspaper. Although this additional information was not considered crucial to the determination of the application and had been published on the Council's application website, it was seen as a minor technicality and one which was considered that the Council could potentially be legally challenged on. Therefore, in the interests of expediency and with the aim of keeping costs to an absolute minimum, the Council chose not to contest the judicial challenge and instead accepted that the decision be quashed and that the re-determination of the application should follow. A copy of the High Court decision and the judicial review pre-action protocol letter is available for inspection on the Council's application website at:

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

2. Policies

2.1 National Planning Policy Framework (NPPF)

The following sections are of particular relevance:

Introduction	-	Achieving Sustainable Development
Section 3	-	Supporting a Prosperous Rural Economy
Section 7	-	Requiring Good Design
Section 11	-	Conserving and Enhancing the Natural Environment
Section 12	-	Conserving and Enhancing the Historic Environment

2.2 Herefordshire Unitary Development Plan (HUDP)

S1	-	Sustainable Development
S2	-	Development Requirements
S7	-	Natural and Historic Environment
S10	-	Waste
DR1	-	Design
DR2	-	Land Use and Activity
DR3	-	Movement
DR4	-	Environment
DR7	-	Flood Risk
DR9	-	Air Quality
DR13	-	Noise
DR14	-	Lighting
E13	-	Agricultural and Forestry Development

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

E15	-	Protection of Greenfield Land
E16	-	Intensive Livestock Units
T8	-	Road Hierarchy
T11	-	Parking Provision
NC1	-	Biodiversity and Development
NC2	-	Sites of International 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
LA2	-	Landscape Character and Areas Least Resilient to Change
LA5	-	Protection of Trees Woodlands and Hedgerows
LA6	-	Landscaping Schemes
CF2	-	Foul Drainage
CF4	-	Renewable Energy
HBA4	-	Setting of listed buildings.

2.3 Herefordshire Local Plan Core Strategy

SS1	-	Presumption in Favour of Sustainable Development
SS4	-	Movement and Transportation
SS5	-	Employment Provision
SS6	-	Addressing Climate Change
RA6	-	Rural Economy
MT1	-	Traffic Management, Highway Safety and Promoting Active Travel
E1	-	Employment Provision
LD1	-	Local Distinctiveness
LD3	-	Biodiversity and Geo-diversity
LD5	-	Historic Environment and Heritage Assets
SD1	-	Sustainable Design and Energy Efficiency
SD2	-	Renewable and Low Carbon Energy
SD3	-	Sustainable Water Management and Water Resources
SD4	-	Wastewater Treatment and River Water Quality
ID1	-	Infrastructure Delivery

2.4 Other Material Considerations

Landscape Character Assessment

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:-

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

3. **Planning History**

3.1 None identified.

4. **Consultation Summary**

Statutory Consultees.

4.1 Natural England raises no objections.

4.2 The Environment Agency raises no objections indicating that an Environmental Permit for the site was issued on 8th June 2014 and that this will monitor and manage issues in relationship

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

to day to day general management, including operations, maintenance and pollution incidents, issues in relationship to relevant emissions and monitoring to water, air and land, as well as fugitive emissions, including odour, noise and operations will be addressed. The response indicates that the EA have given consideration to ammonia assessments, and that odour can be an issue with regards to intensive poultry units and that the applicant's odour impact assessment is considered acceptable and that they do not perceive odour as being a problematic issue as they consider the applicant has gone beyond the recognised guidance to address concerns on odour issues.

The response indicates the noise assessment as a negligible impact on surrounding dwellings and that they do not anticipate dust as a nuisance to residents living nearby. Flood risk issues are considered acceptable and it is noted that surface water from the proposed development will be directed into an attenuation pond, which has been designed to contain a 1 in 100 year event with an 20% allowance for climate change. Water management issues are considered satisfactory and that a manure management plan will be required as part of the permit regulations for the site.

Internal Council Advice

4.3 The Public Rights of Way Manager raises no objections.

4.4 The Conservation Manager (Ecology) has responded to the application indicating:

'I have read the ecological report from Wold Ecology dated September 2013 and concur with its findings. If the planning application is approved I would like to see provision made for the ecological aspects of the site.'

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 in order to ensure the recommendations set out in section 7.4 of the ecologist's report from Wold Ecology dated September 2013 are followed unless otherwise agreed in writing by the local planning authority.

The response also recommends the attachment of informatives to any approval notice in order to remind the applicant of the provisions of the Wildlife and Countryside Act 1981.

4.5 The Land Drainage Manager initially raised objections indicating a Flood Risk Assessment was required in support of any formal application for development on site due to the area size of the development exceeding 1 hectare. In response to further information on drainage issues received, no objections are raised subject to a condition with regards to a detailed drainage strategy being attached to any approval notice issued.

4.6 The Transportation Manager raises no objections subject to conditions with regards to access, turning and parking and closing off the existing entrance onto the A44 being attached to any approval notice issued. He also recommends an informative note with regards to works in the highway.

4.7 The Environmental Health Manager raises no objections subject to a condition being attached to any approval notice issued with regards to external lighting. Comment is made that issues such as dust, odour, fumes and noise will be controlled via the Environmental

Permit that will be required for the site and issued and monitored by the Environment Agency. A further response raises no objections with consideration to land contamination issues.

- 4.8 The Conservation Manager, (Landscape) indicates that the development can be supported in landscape terms, as it is not considered to adversely affect the landscape character and overall is considered compliant with Policy LA2 of the UDP. The response to the request for re-determination of the application indicates that from a landscape-related perspective, there is no reason for planning permission not to be granted.

The response indicates that in order to ensure that the existing landscape features and elements on and around the site are protected, and that an effective and appropriate scheme of mitigation and enhancement is designed and implemented, the following specific points should be taken into account and conditions attached to any approval notice to reflect these points:

- i) The landscape scheme should be based on an on-site assessment of the landscape and visual receptors identified above, seasonal factors and existing landscape features/ vegetation on and close to the site. It should take into account the findings and recommendations of the ecology report, drainage strategy and other relevant studies.
- ii) Proposals for mitigation and enhancement must be in keeping with the local landscape character using locally-occurring species and mixes. They should demonstrate how mitigation will be effective (in terms of the height of plants at planting, planting densities, width of planting areas and the timescale for plants to grow tall/dense enough to screen views). They should also demonstrate how biodiversity will be maintained and enhanced.
- iii) Plans should be submitted showing the proposed structure of the landscaped areas. The information provided on the landscape plans should include:
 - The location of any trees/hedgerows to be retained/removed and details of tree/hedgerow protection
 - Areas where landscaping is required for mitigation and enhancement
 - Planting schedules and specifications
 - Details of the proposed attenuation pond (including cross-sections and aquatic planting)
 - Existing and proposed levels with cross-sections
 - Details of colours and materials of buildings, surfaces, fencing etc. (all materials should be non-reflective as far as possible and the preferred colour for the cladding is slate blue (BS 18-B-29) or black, as these colours are better assimilated into the local landscape than artificial greens.
- iv) A landscape management plan should be submitted, setting out annual maintenance and long-term (20 years +) management proposals to demonstrate that the proposed mitigation will be effective over time. It should also include sustainable measures for conserving and enhancing biodiversity, taking into account recommendations in the ecology report and ecology comments.

- 4.9 The Conservation Manager (Built Environment), raises no objections indicating *‘the parcel of land proposed for the siting of 4no broiler buildings lies to the west of Penrhos Court, a grade II* listed courtyard of buildings, and Penrhos Farm, a grade II listed farmhouse and its associated historic buildings. To the south west of the site are two grade II listed dwellings and a grade II listed cemetery chapel. The site and that of Penrhos Court were visited on*

Wednesday 16 July to assess the impact of the proposal in terms of the setting of the listed buildings and whether the proposal would be in accordance with Policy HBA4.

The site is at least 410m to the west of Penrhos Court and slightly further from Penrhos Farm. It is also approximately 30m lower than either complex of listed buildings with several hedge and tree boundaries breaking up the land between. Having looked at the views from the site towards Penrhos Court and vice versa it is acknowledged that it would be possible to view the one from the other, however the visual impact of either site on the other is considered to be minimal given the distances between. Due to the woodland at Penrhos Court there is no visual interconnectivity between the site and Penrhos Farm.

In the case of the listed buildings to the south west of the site, there would be no visual interconnectivity with the site due to the topography of the land in between. These buildings lie at a distance of just under a kilometre from the site and their setting is not considered to be affected by the proposals.

The principle of the proposal is considered acceptable in relation to its impact on the setting of the listed buildings in the locality and therefore would accord with Policy HBA4'.

5. Representations

5.1 Lyonshall Parish Council has responded to the application stating:

'Lyonshall Parish Council fully supports this application which conforms to the Lyonshall Broiler Chicken Policy.

In particular, there was recognition that the economic benefits are hard to quantify but that a thriving agri-business is important in this rural area. The broiler industry provides many jobs both in the parish and the county.

The applicant should be required to provide screening for the site.

The applicant has agreed to the time constraints for lorry movements set out in the Lyonshall Policy. He has also agreed to apply a one-way system where lorries will turn left into and out of the site to aid traffic flow and reduce the number of lorries travelling through Lyonshall village.

There are houses within 400 metres and an odour assessment has been made. The figures were reviewed and it was agreed that they fell within acceptable levels.'

5.2 Kington Town Council has responded to the application stating:

'Kington Town Council objected to the application that was published in January on several grounds. The Council maintains the objections that were submitted in January. The Town Council noted that Hereford Council's Decision was to Approve the application, and that subsequently the Decision was Quashed under Judicial Review. Neither the Planning Officer's assessment of the earlier application which led to a decision to Approve, nor information that the decision was appealed and quashed is present among the documents presently on the Council's website.

The Town Council has considered the application again, together with the amended documents that have been published recently, and makes the following additional comments:

- 1. There is a failure to consider adequately the adverse impacts on residential amenity Policy E13 (Agricultural and Forestry Development) of the UDP.*

2. *There is a failure to consider and comply with the intentions of Policy E16 (Intensive Livestock Units) of the UDP Para 6.5.22 of the UDP States:*

“Permitted Development Rights under the General Permitted Development Order 1965 do not extend to buildings to be used for the accommodation of livestock.....when these are to be built within 400m of ‘a protected building’. This latter term includes residential and other permanent buildings...As is suggested by the removal of permitted development rights, the relationship to surrounding dwellings or other buildings normally occupied by people will normally be most important in considering planning applications for intensive livestock units. Units should be sited at least 400m from non-agricultural buildings; planning applications for units within 400m of a protected building will be carefully assessed.”

It is clear that the present application is not covered by the General Permitted Development Order and therefore needs careful scrutiny. The intention of the Policy quoted is clear – to give protection to residents in their homes from the effects of close proximity to intensive livestock units, such as 4 large broilers. No special reasons for ignoring the Policy have been put forward in the application.

In the latest (May 2014) Odour Impact document, page 3, there is information that there are 6 dwellings well within 400m of the site, and the Grade 11 listed Penrhos Court 480m distant. It should be emphasised that the 6 dwelling are very firmly within 400m; measurements of 280m, 290m 310m and 380m are given in the application documents.*

The recent Odour assessment suggests that none of the dwellings within 400m are likely to be affected beyond the accepted tolerance limit. This contradicts the document previously submitted, but without explanation. In the present document there are statements that raise concerns.

3.5, page 7 “Odour emission rates from broiler houses depend on many factors and are high variable. Towards the end of the crop cycle (35 days), odour production within the poultry housing increases rapidly and ventilation requirements are greater, particularly in hot weather, therefore emission rates are considerably greater than at the beginning of the crop.”

In warm weather people like to have their windows open and spend time outdoors in their gardens.

And further, “Peak odour emission rates are likely to occur when the housing is cleared of spent litter at the end of each crop. There is little available information on the magnitude of this peak emission, but it is likely to be greater than any emission that might occur when there are birds in the house. In hot weather it will be particularly bad?”

The application offers a suggestion: “....to avoid high odours levels at nearby sensitive receptors (houses) it may be possible to time the operation to coincide with winds blowing in a favourable direction.” Is it likely that the programme of clearing and cleaning the sheds every 8 weeks can be sufficiently flexible to accommodate weather forecasts? In effect the Odour Assessment does not eliminate the probability that nearby residents will be within range of the offensive odour.

The Town Council continues to be concerned about the impact on the local water courses (E16 and DR4). The present application includes a revised Flood Risk and Surface Water Management document that provides details of the drainage systems proposed. It is clear that the proposed site is on impermeable ground, so soakaway systems will not be appropriate. The surface area to be covered by the 4 broilers, the other buildings and the

hard standing necessary for HGVs etc is considerable, the major part of 3.30 ha. Thus the accumulation of rain water from the roofs as well as from the ground and any spillage will become run-off from the site. As is stated in the document, page 5, the development site field is located at the source of the watercourse that runs along the boundary of the site and westwards into the River Arrow just outside Kington. Page 12 of the report, "All surface water runoff from the proposed development will be discharged into the unnamed watercourse to the north of the site." It is proposed to control the amount and rate of discharge into the watercourse by means of the attenuation pond, although this has not been tested. What is of concern to the Town Council is the cleanliness of the water discharged. It would seem inevitable because of vehicle movements, lorries and tractors containing chicken manure, lorries arriving from many different destinations and so on that the surface water is likely to be polluted because there is no filtration or decontamination system proposed. Poultry manure is a major source of contamination of water courses in Herefordshire. The Lugg and Arrow Fisheries Association, together with the Wye and Usk Foundation have been working over the last 10 years to improve the quality of the Arrow and its tributaries. The pollution levels in the Lugg already exceed the permitted levels. Herefordshire Council's recently produced Nutrient Management Plan identifies agriculture as a major source of pollution of the rivers and points to poultry manure as a prime contributor to the high phosphate levels. The Town Council considers it to be unacceptable to discharge the water into the watercourse.

200 tonnes of manure will be produced per cycle from this site (1600 tonnes p.a.) and will be exported from the site. The application states that it will be used "as a sustainable fertiliser." It is unclear what is meant by that description. The Town Council is concerned at the increasing use of poultry manure being spread on local fields because it is contributing to the pollution of our rivers.

Summary

Kington Town Council objects to the application. We consider the site to be unsuitable for the development proposed. We consider that there is a failure to consider adequately the impacts on nearby residents, and a failure to consider adequately the effects on the quality of local water courses. We consider there is a failure to take proper account of the intentions of the Policies E13, E16 and DR4.'

- 5.3 The Ramblers Association comments that a public footpath runs close to the site for the proposed development, and that this footpath must not be damaged or obstructed.
- 5.4 Herefordshire Campaign for the Protection of Rural England object to the proposed development and their objection can be summarised as follows:
- The proposed development does not comply with relevant policies of the UDP, emerging Core Strategy or the NPPF.
 - Concerns are raised about the lack of sufficient landscape screening.
 - There will be an odour impact on nearby dwellings and Kington Town.
 - Concerns about drainage of the site, and that chicken manure is a pollutant and not a sustainable fertiliser as claimed by the applicant's agent.
 - Development represents industrial type development in appearance.
 - Benefits to the local economy are outweighed by the negative impacts, Kington is a well known area for walking.
 - Overall development is not considered sustainable development and not in accordance with the aims of the NPPF.
- 5.5 At the time of writing this report 79 letters of objection have been received from members of the public. (Some have written more than one letter of objection).

Issues raised can be summarised as follows:

- Public highway issues and the increase in vehicular movements as a result of the development.
- Impacts on surrounding residential amenity, noise and odour impacts.
- Drainage issues
- Light pollution issues.
- Detrimental impact on tourism
- Detrimental impact on built historic environment.
- Landscape Impact
- Pollution fears in relationship to surrounding biodiversity
- Procedural issues.

5.6 A letter of objection has been received from Marches Planning and Property Consultancy on behalf of Mrs. Janet Srodzinski, Penrhos House, Kington. Issues in relationship to objections raised can be summarised as follows:

- Detrimental impact on the setting of a listed building and its curtilage, namely Penrhos Court and therefore development contrary to Policy HBA4 of the UDP.
- Cumulative impacts of development will be visible from the Grade II* Hergest Croft Gardens, Offa's Dyke and Hergest Ridge, and National Trust property at Brandon Hill and the Kington Golf Course and therefore development considered contrary to Policies S7 and LA4 of the UDP.
- Detrimental impact to seven dwellings located within 400 metres of the development which would have a threat on residential amenity and human health in relationship to noise, odour, increased traffic and potential threats to the landscape. Therefore development considered contrary to Policies E13 and E16 of the UDP and Paragraph 122 of the NPPF.
- Concerns are raised that the development does not comply with Schedule 4 of EIA Regulations and that the Environmental Statement submitted in support of the application lacks sufficient information on this issue.
- The development is not considered sustainable and in accordance with Policy S1 of the UDP or the NPPF on sustainability issues.
- Insufficient consideration to waste generated from the site and therefore development considered contrary to Policy S10 of the UDP and EIA Regulations.
- Development will have an industrial impact on the rural character of the surrounding landscape and that insufficient landscaping in the form of trees and hedgerows exist on site and therefore development contrary to Policies LA2, S7, E13 and E16 on landscape impact issues.
- Insufficient detail in relationship to ecological issues submitted in support of the application in relationship to the site and the surrounding area and therefore development considered contrary to Policies NC1, NC2 and NC3 of the UDP and the NPPF on ecological issues.
- Insufficient information in support of the application on traffic movement issues as a result of the development and surrounding public highways are not considered suitable to accommodate traffic as a result of the development and therefore development considered contrary to Policy E16 of the UDP.
- Concerns about cumulative impacts and therefore development considered contrary to the UDP.
- Concerns about the economic aspect of the development and information submitted in support of the application and in particular in relationship to tourism and therefore development considered contrary to the aims of the NPPF.
- Also accompanying the objection received from Marches Planning and Property Consultancy is a review of the odour impact and noise impact assessments submitted in support of the application. The odour impact assessment indicates overall that the

report appears to have been produced in a careful and professional manner, although raises concerns about overall predictions. The noise impact assessment raises concerns about potential noise generated on site, however it concludes by indicating conditions can be attached to any approval notice issued in order to control noise generated on site.

5.7 At the time of writing this report 78 letters of support have been received from members of the public. Issues raised can be summarised as follows:

- Economic benefits to the area and county of Herefordshire.
- Reduces food miles
- Provides employment
- Farming business concerned is managed to a high environmental standard.
- Farming businesses need to diversify and chicken farming is one such agricultural enterprise that does not rely on subsidies.
- Transportation issues are considered satisfactory in relationship to adjacent public highways.

5.8 A letter of support has been received from the National Farmers Union, (NFU). The letter states support with consideration to the requirement to continue to expand the British poultry industry, in order to meet rising demand from consumers and reduce food miles, as the UK is not self sufficient in chicken production. Comment is also made about the economic benefits that the proposal will have to the local community and the wider County as a whole.

5.9 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

6. Officer's Appraisal

6.1 The proposed development is in relation to an existing farming enterprise which extends to 440 acres, mainly in arable production. As part of the business there is also an intensive broiler rearing unit located at the Heath Farm, Lyonshall, where approximately 200,000 broilers are produced on site. (EA site licence allows up to 225,000 on site). It is considered that this broiler unit is not suitable for any further expansion due to concerns about visual and residential amenity. (Site is within close proximity to the A44 and dwellings outside the control of the applicant). The farming enterprise has recently been granted planning approval for polytunnel development in relationship to a farm diversification scheme into cherry production. Information submitted in support of this application refers to the economic benefits to the area concerned if the 'broiler' development is allowed. This outlines the costs of such a development and staff required in order to ensure the effective management of the business venture concerned. Whilst intensive poultry development is often controversial as far as members of the public are concerned, the economic benefits of such development have to be considered. In this instance the broiler production is in relationship to the 'Cargill' chicken processing plant based in Hereford. It must also be made clear that environmental and amenity issues are of paramount importance during the planning process for such development.

6.2 The key issues of concern in relationship to this application are:

- Landscape and historic built environment impact.
- Ecological issues.

- Access and highway safety
- Drainage and flooding issues
- Residential amenity

Landscape and Historic Built Environment Impact

- 6.3 As part of pre-application discussions a sequential site selection test did take place in conjunction with the Council's Landscape Officer and it was concluded that the proposed site as put forward by the applicant, was the most suitable when assessed in relation to the Council's landscape character assessment and in relation to potential highway safety and access issues, as well as issues in relationship to residential amenity. Issues in relationship to agricultural diversification and economic development have also been taken into consideration.
- 6.4 The Environmental Statement accompanying the application includes a section on landscape and cultural heritage impacts and the conclusions are considered acceptable.
- 6.5 The landscape in which the site is located is classed as 'Principal Timbered Farmlands' in accordance with the Council's landscape character assessment, which is a landscape of hedgerows as defined field boundaries with a wooded character and densely dispersed pattern of farmsteads and wayside cottages. The site is not subject to any specific landscape designations and there are no listed buildings within close proximity to the site. The nearest listed building is Penrhos Court which is grade II* listed and located approximately 410 metres from the site. Beyond Penrhos Court is Penrhos Farmhouse which is grade II listed. It is considered that the proposed development, whilst it will be viewed from a public footpath located between the site and Penrhos Court, will have no significant detrimental impact on the setting of either listed building or other listed buildings in the surrounding area. Within the surrounding landscape, are other landscape designations such as the Offa's Dyke footpath, Hergest Croft Gardens, (Grade II*), Hergest Ridge and a National Trust property at Brandon Hill. With consideration to the nature of the development and distances involved it is considered that there is no significant detrimental impact on any of these assets or others within the surrounding landscape.
- 6.6 Whilst it is acknowledged that the proposed development is of a large scale that will have an impact on the surrounding landscape character, the plans clearly indicate that the retention and use of the existing surrounding native vegetation, and the surrounding land topography will help mitigate the visual impact of the development into the landscape and with further landscape mitigation, the findings of the landscape assessment are considered acceptable. It is considered that the development complies with the criteria of Policies LA2, LA5 and LA6 and other relevant policies of the Herefordshire Unitary Development Plan, (UDP) and the National Planning Policy Framework, (NPPF) and with appropriately worded conditions attached to any approval securing detailed landscaping proposals and future maintenance arrangements is in accordance with advice as received from the Conservation Manager (Landscape) in response to the application.

Ecological Issues

- 6.7 Ecological issues in relationship to the site and the surrounding area are considered to have been addressed satisfactory, with the development considered to be in accordance with Policies NC1, NC4, NC7, NC8 and other relevant HUDP policies and the NPPF subject to the attachment of a condition as recommended by the Conservation Manager (Ecology), in order to ensure recommendations as set out in the Environmental Statement on ecological issues are adhered to.

Access and Highway Safety

- 6.8 Access into and out of the site is proposed by making use of an existing field track with creation of a new entrance directly onto the A44, which will link up with the field track. The new entrance is required in order to provide adequate visibility splays.
- 6.9 The application proposes to make use of this track for access to the site which is a length of approximately 190 metres. Information in support of the application indicates that this access track will be upgraded in order to accommodate the development and information submitted in support of the application indicates that the development will generate 608 Heavy Goods Vehicle (HGV) movements per annum, (based on 8 flocks of birds per annum), which represents an average of less than 2 per day and an automated traffic assessment of the A44 close to the site during the month of February has indicated that this will contribute less than 1% HGV movements onto the A44 which is considered acceptable to the Transportation Manager.
- 6.10 The development is therefore considered acceptable in relation to highway safety and transportation issues. Conditions attached to the approval notice on landscape issues will cover issues in relation to hedge planting and blocking up the existing track entrance onto the A44. On transportation and highway matters the development is considered to be in accordance with Policies DR2, DR3, T8, E16 and other relevant HUDP Policies and the NPPF.

Drainage and Flooding Issues

- 6.11 Many letters of objection as well as the response from Kington Town Council raise concerns about potential drainage and flooding issues as a result of development particularly in relation to water pollution and nearby water courses.
- 6.12 The application site exceeds 1 hectare in area, and is located in Flood Zone 1 (low probability), in accordance with the flood risk maps and therefore in accordance with advice as set out in the NPPF on meeting the challenge of climate change, flooding and coastal change, the applicant submitted a Flood Risk Assessment, as well as a separate drainage and management appraisal.
- 6.13 The EA raises no objections noting that the applicant proposes an attenuation pond which is designed to contain a 1 in 100 year event with a 20% allowance for climate change. This is considered acceptable by the EA and as such is not considered to represent any grounds for the refusal of planning permission.
- 6.14 The Land Drainage Manager has responded indicating that there are no objections on drainage and flooding issues and recommends that a condition with regards to a drainage strategy is attached to any approval notice issued.
- 6.15 Therefore it is considered that the development complies with Policies DR4 and DR7 and other relevant policies of the HUDP on drainage and flooding as well as the guidance provided by the NPPF.

Residential Amenity

- 6.16 A number of letters of objection as well as the consultant reports on behalf of the occupant of Penrhos House and the response from Kington Town Council raise concerns about impact of the proposed development on residential amenity. The nearest residential dwellings to the site are located mainly alongside the A44. The nearest residential dwelling known as Penrhos House is located from the closest point of the nearest poultry shed to the edge of its curtilage at approximately 245 metres.

- 6.17 Issues raised with regards to residential amenity refer to odour, noise, (fans operating on site, feed deliveries, machinery operations etc), dust, external lighting and pests (flies). As part of the application the ES includes reports on noise and odour issues and also makes reference to dust and pest control. Neither the Environmental Health Manager or the EA raise any objections on these issues.
- 6.18 It must also be noted that in order for this site to operate the applicant will need an Environmental Permit issued by the EA under the Environmental Permitting (England and Wales) Regulations (ERP) 2010. The response from the EA dated 2nd July 2014 indicates that the site will require an Environmental Permit issued and monitored by the Environment Agency and that the permit will control day to day general management, including operations, maintenance and pollution incidents. In addition, through the determination of the environmental permit, issues such as relevant emissions and monitoring to water, air and land, as well as fugitive emissions, including odour, noise and operation will be addressed, and that a permit for this site was issued on the 5 June 2014, reference VP3236NH.
- 6.19 Although it is considered unusual that a permit for the site has already been issued by the EA, clearly the permit will address issues in relation to odour, noise and dust and matters as referred to in the paragraph above and it is considered that there are no grounds for refusal based on this matter. Issues in relation to waste generated on site are considered to have been addressed satisfactorily as part of the ES.
- 6.20 The ES indicates that manure generated on site will be removed at the end of each flock cycle and that no manure will be stored on site. It will be removed in sealed trailers for use as fertiliser. This is considered a sustainable use, however odour in relation to intensive poultry units is generally during the clean out and disposal operations and therefore it is recommended that conditions with regards to transportation off site and a manure management plan are attached to any approval in order to ensure that potential odour is kept to an absolute minimum. It is noted that the EA in their response dated July 2 2014 indicate that under the environmental permit regulation the applicant will be required to submit a manure management plan, which consists of a risk assessment of the fields on which the manure will be stored and spread. The manure/litter is classed as a by-product of the poultry farm and is a valuable crop fertiliser on arable fields.
- 6.21 With consideration to the above-mentioned EA controls, it is considered that the development is acceptable and with appropriately worded conditions attached to any approval notice, (the EA permit and manure plan regulates on site activities which includes land in the applicants control), complies with Policies DR2, E16 and other relevant HUDP policies as well as the guidance provided by the NPPF on matters in relationship to residential amenity.

Other Matters

- 6.22 Impacts on public footpaths and scale of development on site are considered to be addressed satisfactorily. The development in relationship to tourism interests is also considered acceptable.
- 6.23 Concerns have been raised with regards to cumulative impacts in relationship to other intensive poultry enterprises within the surrounding area. It is considered that there are no cumulative impact concerns in relationship to the development in relation to other intensive poultry units or other industrial developments within the surrounding locality and this also includes consideration of transportation issues. Also the cumulative impact of the development in relationship to the surrounding historic landscape and tourist attractions is also considered acceptable.

- 6.24 The objection from Marches Planning and Property Consultancy indicates that the development does not comply with Paragraph 122 of the NPPF which states “...*local planning authorities should focus on whether the development itself is an acceptable use of land, and the impact of the use, rather than the control of the processes or emissions themselves where these are subject to approval under pollution control regimes.*” The EA in their response to the application also refer to paragraph 122 of the NPPF and clarify that they would not seek to control the proposals through the planning process. They would control relevant matters through the environmental permit process. It is considered that these issues in relationship to amenity have been considered as part of the planning assessment.
- 6.25 Concerns have also been raised questioning whether the development is in accordance with Schedule 4 of EIA Regulations 2011 and that the Environmental Statement (ES) lacks sufficient detail on this matter. It is considered that the ES as a whole does provide sufficient information on the development. The revised ES refers to an economic appraisal and sustainability appraisal of the development. Poultry units by their nature have to be built to high hygiene and welfare standards and therefore construction materials which are referred to as part of the application are limited in choice. Overall the information submitted in support of the application is considered acceptable on this issue as well as the consideration given to economic issues.
- 6.26 Concerns have been raised with regards to sustainability and in particular in relationship to the NPPF. At the heart of the NPPF is a presumption in favour of sustainable development which should be seen as a golden thread running through both plan making and decision making. Section 3 of the NPPF: Supporting a prosperous rural economy, indicates that planning policies should support economic growth in rural areas and expansion of businesses and enterprises and this includes the promotion and diversification of agricultural businesses.
- 6.27 Procedural issues have been considered earlier in this report. As a result of the original approval notice being quashed in the High Court, the applicant has requested reconsideration of the application by the Council and he has submitted additional information in support of his proposal. Officers believe correct procedures have been followed in accordance with EIA Regulations and the application is now being presented to Committee for a planning decision.
- 6.28 The proposal includes a storage building for the housing of biomass boiler facilities and storage of wood chip and the HGV transportation movements indicate allowance for 2 fuel deliveries per flock cycle. This is considered acceptable. It is recommended that a condition is attached to the approval notice in order to ensure no timber is stored outside of the buildings on site, with consideration to landscape and visual impact issues. Woodchip delivered to the site in its processed state for storage inside a building is considered acceptable.

Conclusions

- 6.29 The application proposes a significant development that will have an impact on the landscape. However it is considered to be of a scale that can be successfully integrated into the surrounding landscape character with consideration to the existing land topography and existing native vegetation adjacent to the site and further landscape mitigation as proposed. Impacts on the historic environment and setting of listed buildings are considered acceptable.
- 6.30 Vehicular access into and out of the site is directly onto the A44 and whilst it is acknowledged that several letters of objection raise concerns about highway safety in respect of additional vehicle movements, there is no evidence to substantiate this and the

Transportation Manager raises no objections in relationship to highway safety and/or capacity.

- 6.31 The site is not located in a high risk flood area and the applicants submitted a flood risk assessment and drainage report which is accepted by the EA and the Land Drainage Manager and it is considered that development will not create flooding and drainage issues in the locality.
- 6.32 Residential amenity and potential odour issues are considered to be addressed satisfactorily. Conditions on odour issues in order to ensure protection of the surrounding environment are recommended to be attached to any approval. Furthermore the site has already had an Environmental Permit issued from the EA in order to operate and this permit controls issues in relationship to amenity, odour and pollution issues.
- 6.33 Having given full consideration to the proposal, representations and the ES, the development is considered acceptable and in accordance with the HUDP and the NPPF.

RECOMMENDATION

That officers named in the Scheme of Delegation to Officers are authorised to grant full planning permission, subject to the conditions below and any other further conditions considered necessary.

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.**

Reason: Required to be imposed by Section 91 of the Town and Country Planning Act 1990 and the National Planning Policy Framework.

- 2 The development hereby approved shall be carried out strictly in accordance with the approved plans (Site plan – drawing number IP/RW/02, proposed boiler units elevations plan – drawing number IP/RW/03, proposed boiler units elevations plan – site sections– drawing number IP/RW/04, general storage and heating boiler building elevations and floor plan – drawing number IP/RW/04) and the schedule of materials indicated thereon and information submitted in support of the application.**

Reason: To ensure adherence to the approved plans and to protect the general character and amenities of the area in accordance with the requirements of Policy DR1 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework.

- 3 Notwithstanding the approved plans all the external colouring of the buildings hereby approved shall be to colour code ‘slate blue’ BS18B29 or other dark colour approved in writing with the Local Planning Authority prior to any development on site.**

Reason: With consideration to the impact on the surrounding landscape and to comply with Policies DR1 and LA2 of the Herefordshire Unitary Development Plan.

- 4 The development hereby permitted shall not be brought into use until the access, turning area and parking facilities shown on the approved plan have been properly consolidated, surfaced, drained and otherwise constructed in accordance with details to be submitted to and approved in writing by the local planning authority and these areas shall thereafter be retained and kept available for those uses at all times.**

Reason: In the interests of highway safety and to ensure the free flow of traffic using the adjoining highway and to conform with the requirements of Policy T8 and T11 of Herefordshire Unitary Development Plan and the National Planning Policy Framework.

- 5 Prior to the commencement of the development hereby permitted, full details of all external lighting to be installed upon the site (including upon the external elevations of the buildings) shall be submitted to and be approved in writing by the local planning authority. No external lighting shall be installed upon the site (including upon the external elevations of the buildings) without the prior written consent of the local planning authority. The approved external lighting shall be installed in accordance with the approved details and thereafter maintained in accordance with those details.**

Reason: To safeguard the character and amenities of the area and to comply with Policy DR14 of Herefordshire Unitary Development Plan.

- 6 No development shall take place until a Manure and Site Management Plan (which will also refer to storage on site in relationship to the general storage and heating building), has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the provisions of the approved Plan.**

Reason: In the interests of pollution prevention and efficient waste minimisation and management so as to comply with Policies S10 and DR4 of Herefordshire Unitary Development Plan and the National Planning Policy Framework.

- 7 The recommendations set out in section 7.4 the ecologist's report from Wold Ecology dated September 2013 must be followed unless otherwise agreed in writing by the local planning authority. 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. 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, NC8 and NC9 of 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 No development shall commence until the Developer has prepared a scheme for the comprehensive and integrated drainage of the site showing how foul water, surface water and land drainage will be dealt with and this has been submitted to and approved in writing by the local planning authority. The work shall be carried out in accordance with the approved scheme.**

Reason: To ensure the effective drainage facilities are provided for the proposed development, and that no adverse impact occurs to the environment so as to comply with Policy DR4 of Herefordshire Unitary Development Plan and the National Planning Policy Framework.

- 9 The development hereby approved shall be for the housing of chickens, (Broilers),**

only.

Reason: In consideration of the location for the proposed development and its proximity to residential use and to comply with Policies DR2 and DR4 of the Herefordshire Unitary Development Plan.

- 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 Notwithstanding the approved plans no development shall take place until a scheme of tree planting and hedge screening has been submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall include details of the species, sizes and positions or density of all trees and hedging to be planted and the proposed time of planting. All tree and hedge planting shall be carried out in accordance with those details. Detail will also include a landscape management plan, which will refer to long term design objectives, management responsibilities and maintenance schedules for all landscaped areas.

The trees and hedges shall be maintained for a period of 5 years. During this time, any trees and hedging that are removed, die or are seriously retarded shall be replaced during the next planting season with others of similar sizes and species unless the Local Planning Authority gives written consent to any variation. If any trees or hedging fail more than once they shall continue to be replaced on an annual basis until the end of the 5-year maintenance period.

Reason: In order to maintain the visual amenity of the area and to comply with Policy LA6 of Herefordshire Unitary Development Plan and the National Planning Policy Framework.

12. Prior to the first use of the application site hereby approved the existing vehicular access onto the adjoining highway shall be permanently closed. Details of the means of closure and reinstatement of the area shall be submitted to and approved in writing by the local planning authority prior to the commencement of work on the development hereby approved.

Reason: To ensure the safe and free flow of traffic using the adjoining County highway and to conform with the requirements of Policy DR3 of Herefordshire Unitary Development Plan and the National Planning Policy Framework.

13. No timber will be stored outside of the buildings on site. No raw timber shall be brought on site for use in the biomass boiler.

Reason: With consideration to landscape and visual impact and public highway and residential issues and to comply with Policies DR2 and LA2 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework.

14. C87 - G01 Earthworks

15. C90 - G04 Protection of trees/hedgerows that are to be retained

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/additional information 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 HN05 Works within the highway**
- 3 N11A Wildlife and Countryside Act 1981 (as amended) - Birds**
- 4 The applicant is reminded that this development will need an Environmental permit issued by the Environment Agency.**

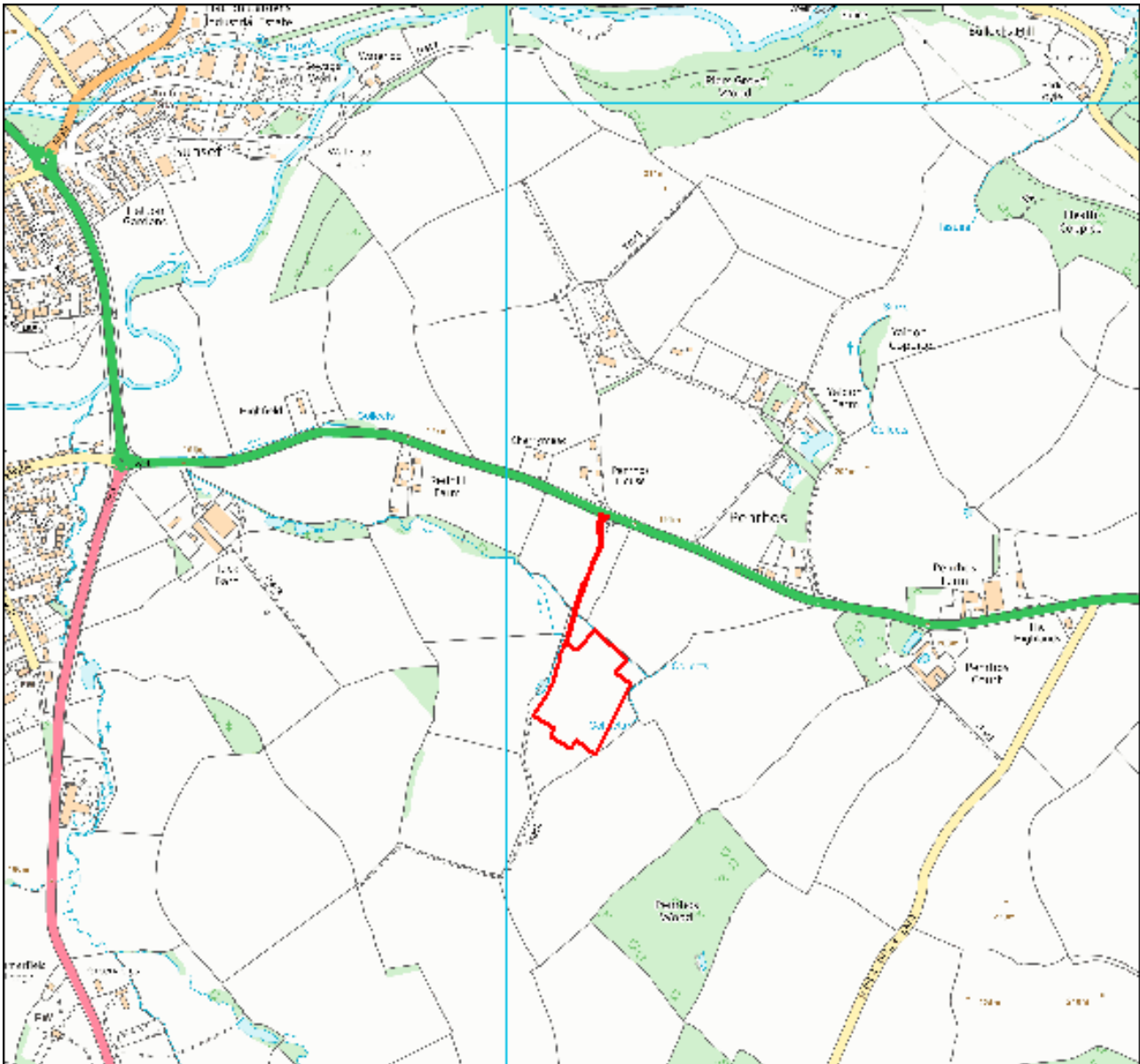
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 133401/F

SITE ADDRESS : LAND SOUTH OF PENRHOS FARM, LYONSHALL, KINGTON, HEREFORDSHIRE, HR5 3LH

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



MEETING:	PLANNING COMMITTEE
DATE:	6 AUGUST 2014
TITLE OF REPORT:	<p>P141240/O - PROPOSED ERECTION OF 5 TERRACED HOUSES AND FORMATION OF PARKING AT LAND AT THE TRAVELLERS REST, STRETTON SUGWAS, HEREFORDSHIRE, HR4 7AL</p> <p>For: Mr & Mrs Cox per Mr John Phipps, Bank Lodge, Coldwells Road, Holmer, Hereford, Herefordshire, HR1 1LH</p>
WEBSITE LINK:	https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=141240&search=141240

Date Received: 22 April 2014

Ward: Credenhill

Grid Ref: 346535,242464

Expiry Date: 17 June 2014

Local Member: Councillor RI Matthews

1. Site Description and Proposal

- 1.1 The application site comprises a parcel of land that lies to the east of the Travellers Rest Public House that forms part of the smaller settlement of Stretton Sugwas to the north west of Hereford. The site lies to the west of the roundabout that forms the junction with the A480 and A4103. Stretton Sugwas Primary school lies to the south.
- 1.2 The parcel of land currently forms part of the curtilage of the public house, and comprises a detached building historically used as skittle alley. The remainder of the land is laid to grass, although is not maintained as part of the pub garden. The site is bounded to the north, east and south by mature hedgerows and is approximately 0.09 hectares in size.
- 1.3 This is an outline application and includes details of access, appearance, layout and scale but reserves landscaping details for future consideration. The proposal is for the erection of a terrace of five, two bed dwellings that would face into the pub car park / garden with their rear gardens extending to the east. The dwellings would be primarily brick, with the central dwelling being rendered. Brick detailing is also proposed. Internally the accommodation provided would comprise two bedrooms and a bathroom at first floor and a living / dining room, kitchen and WC at ground floor.
- 1.4 Following the receipt of comments from the Parish Council, amended plans have been received (24 June 2014) that seek to address comments raised.
- 1.5 Vehicular Access to the application site would be via the access road to the north. This was the old 'Roman Road' that was closed and made into a cul-de sac / turning head during works to improve the Roman Road and install the roundabout. Eight parking spaces are provided to serve the dwellings. Rear access to the properties is also provided through a pedestrian

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

access to the rear gardens. The plans also detail a pedestrian access that would exit the site to the south onto the existing footway.

1.6 The public house is unaffected by this proposal with its garden and parking being retained.

2. Policies

2.1 National Planning Policy Framework (NPPF):

In particular paragraphs 7, 8 and 14

Chapters 6, 7, 11 and 12

2.2 Herefordshire Unitary Development Plan (UDP):

DR1	-	Design
DR2	-	Land Use and Activity
DR3	-	Movement
DR5	-	Planning Obligation
H6	-	Housing in Smaller Settlements
H15	-	Density
H16	-	Car Parking
LA2	-	Landscape Character and Areas Least Resilient to Change
LA3	-	Setting of Settlements
LA6	-	Landscaping Schemes
ARCH1	-	Archaeological Assessments and Field Evaluations

2.3 Herefordshire Local Plan – Pre-submission Publication (May 2014)

SS1	-	Presumption in Favour of Sustainable Development
SS2	-	Delivering New Homes
SS4	-	Movement and Transportation
RA1	-	Rural Housing Strategy

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 SH850490PF Demolition of existing building and construction of a skittle alley/ children's room and beer store. Approved with conditions.

4. Consultation Summary

Statutory Consultees

4.1 Welsh Water recommend conditions and draw to the applicant's attention the position of the trunk/water main and its conditions in respect of this.

Internal Council Advice

4.2 The Transportation Manager makes the following observation:

The parking provision proposed is below our maximum standard of two per dwelling for the two bed units provided, but exceeds the 1.5 spaces per dwelling average. It is unclear how this provision is split between the properties, but may give rise to parking in the turning head should demand exceed provision, and therefore two spaces per dwelling may be more suitable. The spaces should be increased in length to 6m as per our design guide for driveways to give clearance to the road in the turning head area.

The footpath indicated to the west of the properties is presumed for those residents use only and would therefore not be adopted.

Recommends that any permission which this Authority may wish to give include the following conditions:- CAL and informatives I05 and I45.

4.3 Additional comments were received as follows:

Further to our conversation this morning, regarding the points raised in objectors' letters, I would comment as follows.

It would appear that some people have misinterpreted the plans and are of the view that vehicular access is to be provided in the strip shown on the plan emerging near the roundabout, whereas this is not the case. That is purely a pedestrian route linking the proposed dwellings to the existing footpath/cycleway. There is not a clear onward route to the school from this point, as there is currently no dropped crossings to the splitter island at the roundabout, as there are no other quadrants. Their introduction may need to be considered.

With regard to the limited visibility to the north from the junction by the Travellers Rest, this length of road becomes one way northwards a short distance to the north of the junction. Only a couple of properties are served by the intervening length of road and therefore a minimal number of vehicles can approach from that direction. Due to the proximity of their access points to the junction, any vehicle speeds will be low, therefore this is considered acceptable. Regarding the possibility of parking within the cul de sac head, off street parking is provided for the dwellings at an overall 1.5 spaces per dwelling. Two spaces per dwelling would be preferable, and would minimise the risk of such parking occurring, as noted in my original comments. Whilst parking restrictions could be considered, their regular enforcement would be unlikely due to the location, and therefore the effectiveness would be questionable.

In terms of additional traffic flow as a result of the development, I consider this acceptable.

4.4 The Minerals and Waste Officer makes the following comments:

The site lies partly within an area identified as a potential minerals resource (sand and gravel). However, the vicinity is already developed and it is unlikely that any minerals issues would arise in this instance.

4.5 The Conservation Manager (Archaeology)

Although the application does not explicitly refer to it, the application site is directly adjacent to the historic course of the A4103 Roman Road (ie the Roman road, literally so, that ran eastwards from the Roman town of Kenchester).

A decade ago, the Council, during its major highway scheme on the A4103 as it runs towards the north of Hereford, undertook a significant archaeological project to record and deal with finds made before and during the scheme. Finds of substance were made in numerous locations, including on an around the new roundabout that is next to the now proposed development area.

Given the extent of archaeological work already done in the broader area, and the generally good understanding of deposit profiles locally, I am not of the view that we need to obtain more archaeological information prior to the determination of this application (by means for instance of a field evaluation). I have no in principle objection to what is proposed.

However, there is certainly a need for archaeological recording here as mitigation, as a condition of any permission [standard condition E01 C47]. The need for such recording follows Para 141 of the National Planning Policy Framework.

N.B. It is conceivable that there may be ancient human remains on site, which would need to be dealt with as part of the archaeological programme of works. Whilst this is of course an important matter, and would need adherence to the Burial Acts and Ministry of Justice procedures, in practice it ought not to be particularly challenging.

5. Representations

5.1 Stretton Sugwas Parish Council comments on the initial submission can be summarised as follows:

1. In principle the Parish Council does not object to the residential development as noted above.
2. The block plan does not show a formal delineation in terms of a wall or fence between the areas edged blue / red and a comprehensive landscaping scheme should include the Travellers rest buildings and garden areas.
3. Note that the access for vehicular traffic and parking to the site is via the redundant vehicle thoroughfare to the top of the hammerhead and we assume that this application has sought necessary consents from the Local Authority or owner.
4. We would prefer that the gable to the front and rear shown as render be brick. We would prefer that the brick accents and lintel courses over the windows be in the same brick as the building but that the brick accent courses should be corbelled to provide relief and variation to the elevations of the proposed building.
5. We note that the central gable is set forward by some 600mm and request that this be 1m in order to provide some further relief and variation to the elevations.
6. We note and welcome the proposal to provide a pedestrian access to the proposed properties via the newly created access close to the junction with the roundabout on the A4103. Whilst we support this proposal a low level lighting scheme should be incorporated and request that the grass areas are maintained.

5.2 Amended plans were received on 24 June 2014 that alter the projection of the gable and details the boundary with the pub as a mixed native hedgerow.

5.3 Additional comments were received that make the following comments:

We note in the agent's letter that there is an acknowledgement by the agent to carry out the installation of a low level lighting scheme for the footpath which, if approved, we assume will be a condition on the consent.

We note that the other matters of relevance and observations set out in our letter dated 2 June 2014 do not appear to have been incorporated in any revised scheme save in respect of a "hedgerow" to be planted between the proposed new housing scheme and the existing Travellers Rest site.

These include the details with regard to parking management, the detailing on the drawings of accent bands and lintel courses over the windows and the removal of the wall elevations that were to be rendered and replaced with matching brickwork. We assume that these will be delineated as part of a detailed planning application.

Since our original letter of comment on the application dated 2 June 2014 we have received a number of representations from local residents concerning the limited provision of parking attributable to this scheme. Those comments can be condensed into a single view that “we do not believe there is sufficient parking for these houses and that there should be provision for 2 car parking spaces per dwelling”.

We trust you find our comments of merit and they will be taken into account when determining this application.

5.4 At the time of writing 9 letters of objection have been received that raise the following issues:

- Traffic problems / speed of traffic
- Dwellings not in keeping with the local houses. This is a county location with former farm cottages and few scattered semi-detached houses
- The entrance will be right onto the roundabout and the cars etc are very fast / used as a rat run– a new pedestrian crossing should be considered.
- Increase in traffic will add to the congestion
- Amenity of residents from pub noise
- Site isolated by the A road from the rest of the village
- Hoped that the development will enable the owners of the Travellers Rest to return it to what it was, and should be, a community asset open and available for the local community. Hope that the development will allow them to reopen. The pub is now closed again.
- The site could be better used for community facilities.
- There may be a covenant on the pub from when the brewery owned it.

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

6. Officer’s Appraisal

6.1 The application falls to be considered having regard to the following issues:

1. Principle of Development
2. Design and character of the area
3. Highway Safety and Parking
4. Drainage
5. Planning Obligations

Principle of Development

6.2 The application is made in outline with all details included except for landscaping. The proposal is for the erection of five dwellings on the land to the east of the Travellers Rest Public House at Stretton Sugwas.

6.3 Stretton Sugwas is defined within the UDP as a smaller settlement to which policy H6 would apply. Policy H6 relates to proposals for residential development on plots that arise from infill of small gaps between existing dwellings. This proposed development, fails to comply with the requirements of policy H6 of the UDP and lies outside of any other defined settlement boundary.

- 6.4 As has been recorded on a number of recent occasions, the UDP is time-expired, but relevant policies have been ‘saved’ pending the adoption of the Herefordshire Local Plan - Core Strategy. UDP policies can only be attributed weight according to their consistency with the NPPF; the greater the degree of consistency, the greater the weight that can be attached.
- 6.5 In this instance, and in the context of the housing land supply deficit, the NPPF is the most significant material consideration. Paragraph 215 recognises the primacy of the Development Plan but, as above, only where saved policies are consistent with the NPPF:-
- “In other cases and following this 12-month period, due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that maybe given).”*
- 6.6 The effect of this paragraph is to supersede the UDP with the NPPF where there is inconsistency in approach and objectives. As such, and in the light of the housing land supply deficit, the housing policies of the NPPF must take precedence and the presumption in favour of approval as set out at paragraph 14 is engaged if development can be shown to be sustainable.
- 6.7 Paragraph 14 of the NPPF states that for decision making, the presumption in favour of sustainable development 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; or specific policies in this Framework indicate development should be restricted.”*
- 6.8 The Council’s published position is that it cannot demonstrate a five year supply of housing land. This was the published position in April 2012 and again in July 2012 and has been reaffirmed by the recently published Housing Land Supply Interim Position Statement – May 2014. This, in conjunction with recent appeal decisions, confirms that the Council does not have a five year supply of deliverable housing land, and is significantly short of being able to do so.
- 6.9 It is with this context in mind that the application falls to be considered. The application site lies in a smaller settlement that has access to community facilities such as the public house and primary school. This settlement has good public transport links, with dedicated cycle paths to Hereford and to Credenhill with its shops, services and employment opportunities within a short distance. It is your officer’s opinion that this small development would support these local services and is sustainably located. The fact that the village is designated as a smaller settlement in the UDP adds weight to this as residential development is supported in principle (subject to meeting the detailed requirements relating to infill).
- 6.10 Taking all of the above into account, officers conclude that in the absence of a five-year housing land supply and advice set down in paragraphs 47 & 49 of the NPPF, the presumption in favour of sustainable development expressed at Paragraph 14 of the NPPF is applicable. As such, the principle of development cannot be rejected on the basis of its location outside the UDP settlement boundary.
- 6.11 The pre-submission consultation on the Draft Local Plan – Core Strategy closed on 3 July. At the time of writing the Core Strategy Policies, which have not been examined in public, attract

only very limited weight for the purposes of decision making. It is the case, however, that Stretton Sugwas is identified as a settlement that lies within the Hereford Housing Market Area, and that would be a village that would be a main focus of proportionate housing development (policy RA1) within the draft Local Plan Hereford.

Design and character of the area

- 6.12 Stretton Sugwas is a small settlement that is concentrated on a small cluster of dwellings to the north of the Roman Road and to the dwellings on the west of the unclassified 'Stretton Sugwas Village' road adjacent to the school. The hamlet has a mix of dwellings, including terraces, semi-detached and detached properties of varying sizes and eras. There is no predominant character.
- 6.13 The introduction of this small terrace of dwellings will add to the mix of dwellings in the area. These would not adversely impact upon the character of the area nor upon the amenities of any of the nearby neighbouring properties. The design of the dwellings is considered to be acceptable in this context.
- 6.14 The properties will front the pub car park and will be separated by a hedgerow and private footway. They will have good size private gardens and off road parking. The concerns of neighbours are noted but it is not uncommon for residential properties to be located in such close proximity to a public house and this is not considered to be an overriding amenity issue.
- 6.15 Matters of landscaping will be considered as a Reserved Matter and a subsequent application would be required to deal with this. It would be necessary to secure the retention of the existing landscape boundaries to ensure privacy and amenity of the occupiers from the highway users at the east and south of the site.
- 6.16 Having regard to the above, the propose development would comply with the requirements of policies DR1, DR2 and H13 of the UDP and with the guidance contained within the NPPF that seeks to boost the supply and mix of housing and encourage good design.

Highway Safety and Parking

- 6.17 Vehicular access to the site is via the no through road to the north of the site. This road serves a two way road and only one dwelling at present and incorporates a substantial turning head at the far end. The proposed car parking spaces that would serve the dwellings would be accessed directly from this turning head. Visibility when accessing onto this road is good. The Transportation Manager has considered the proposals and raises no objection from a highway safety perspective. Parking is considered to be adequate and meets with the required standards for development of this scale. The application also includes a safe pedestrian access from the site onto the footway to the south and onward to the cycle and pedestrian routes to the school, Credenhill and Hereford. The applicant is agreeable to providing some low level lighting to this private footway in the interests of enhancing the safety of pedestrians. As such the proposal would, subject to conditions requiring the provision of the parking and lighting comply with the requirements of policy DR3 of the Unitary Development Plan and with the NPPF.

Drainage

- 6.18 Welsh Water has raised no objection to the granting of planning permission subject to the usual conditions in respect of the separation of foul and surface water drainage. They refer to the presence of a water main and the applicant is aware of this. Without arranging relocation for this with Welsh Water, the development would not be possible on this site. The correct mechanism for this is through a Section 104 agreement under the Water Act and the applicant

is pursuing this matter separately. On the basis of the information provided, the proposal would comply with the requirements of policies CF2 and DR4 of the UDP.

Planning Obligations

- 6.19 The proposed development would be subject to a planning obligation as per the Council's Supplementary Planning Document on Planning Obligations. However, in response to the economic climate, the Council introduced a suspension of the payment of planning obligations provided that the development is commenced within 12 months (or two years in the case of an Outline / Reserved Matters application). The applicant has requested the reduced commencement date to be attached to any permission. On this basis, the proposal would comply with the requirements of policy DR5 of the UDP and with the Supplementary Planning Document – Planning Obligations.

Conclusion

- 6.20 The proposed development is considered to be a sustainably located development that, in all other respects, complies with the requirements of the Saved policies of the UDP. Therefore in accordance with the requirements of paragraph 14 of the NPPF the presumption in favour of development would apply and the proposed development is recommended for approval subject to conditions.

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. C01 Samples of external materials**
- 7. G11 Landscaping scheme - implementation**
- 8. H13 Access, turning area and parking**
- 9. I16 Restriction of hours during construction**
- 10. H27 Parking for site operatives**
- 11. Prior to the commencement of development details of the low level lighting to the pedestrian footway shall be submitted to and approved in writing by the local planning authority. The works shall be carried out in accordance with the approved details prior to the occupation of the proposed dwellings.**

Reason: To safeguard local amenities and in the interests of public safety having regard to Policies DR1 and DR2 of the Herefordshire Unitary Development Plan.
- 12. E01 Site investigation – archaeology**

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. **HN05 Works within the highway**

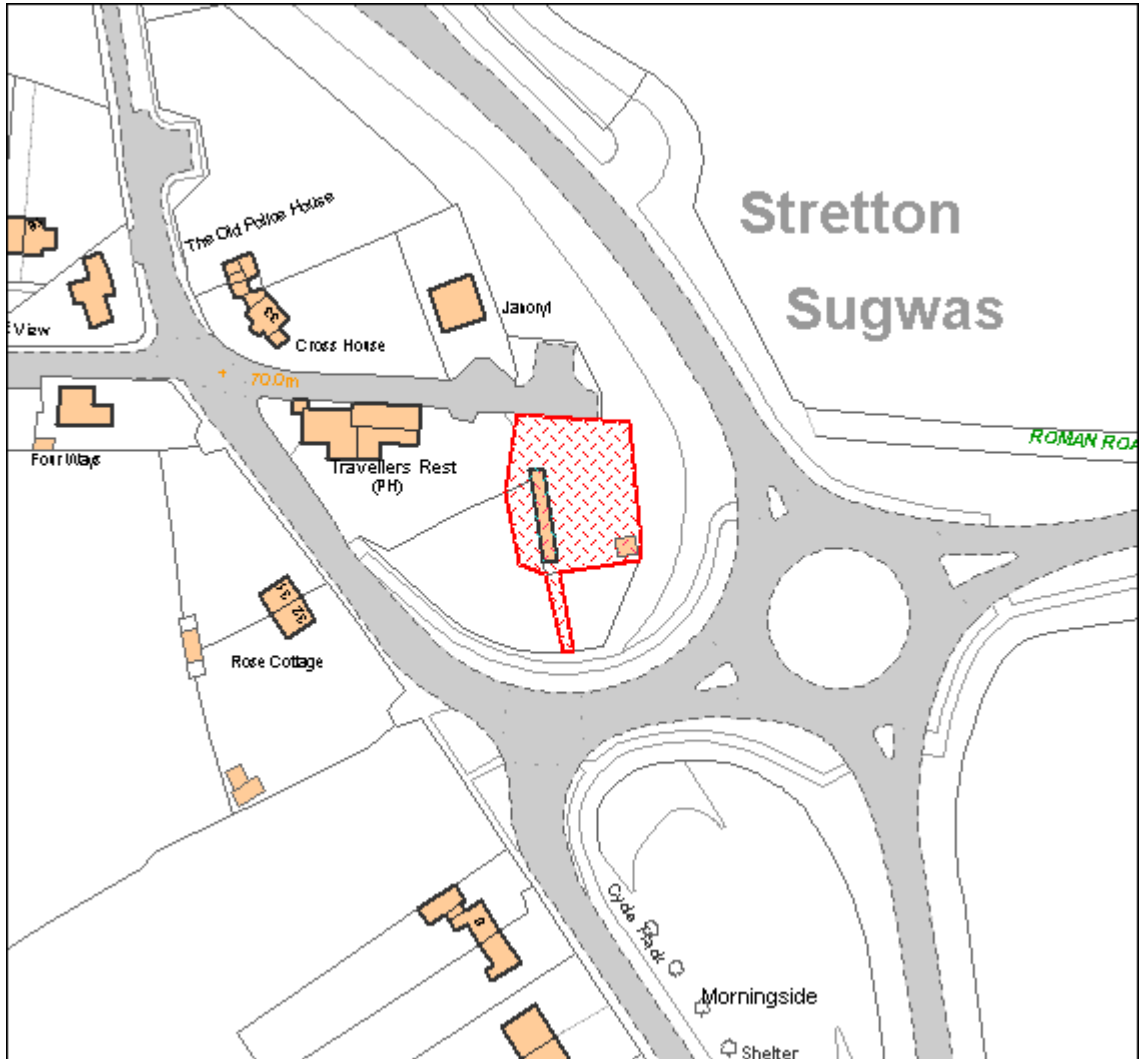
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 141240/O

SITE ADDRESS : LAND AT THE TRAVELLERS REST, STRETTON SUGWAS, HEREFORDSHIRE, HR4 7AL

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MEETING:	PLANNING COMMITTEE
DATE:	6 AUGUST 2014
TITLE OF REPORT:	P141314/O - PROPOSED TWO BEDROOM BUNGALOW AT LAND AT RYELANDS VIEW, KINSHAM, PRESTEIGNE, LD8 2HP For: Mrs Barnett per Mrs Olwyn Barnett, Ryelands View, Kinsham, Presteigne, Herefordshire LD8 2HP
WEBSITE LINK:	https://www.herefordshire.gov.uk/planningapplicationsearch/details/?id=141314

Date Received: 7 May 2014

Ward: Mortimer

Grid Ref: 336091,264690

Expiry Date: 10 July 2014

Local Member: Councillor L O Barnett

1. Site Description and Proposal

- 1.1 Planning permission is sought in outline, with all matters reserved, for the erection of a single storey dwelling to replace an existing timber framed and clad shed on land forming part of the domestic curtilage of Rylands View, Kinsham, Presteigne. The site plan indicates vehicular access making use of the existing access route to Rylands View from the adjacent C1007.
- 1.2 The site is located on the northern fringe of the rural hamlet known as Kinsham. The site area comprises the northern section of the dwelling's curtilage, and is adjoined on its northern side by another dwelling and its curtilage known as The Forge.
- 1.3 An amended plan was received during the application process indicating a smaller plot size, no larger than 350 square metres.

2. Policies

- 2.1 The National Planning Policy Framework (NPPF)

The following is considered to be of particular relevance:

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

2.2 Herefordshire Unitary Development Plan (UDP)

S1	-	Sustainable Development
S2	-	Development Requirements
S7	-	Natural and Historic Heritage
DR1	-	Design
DR2	-	Land Use and Activity
DR3	-	Movement
DR4	-	Environment
DR5	-	Planning Obligations
DR7	-	Flood Risk
H6	-	Housing in Smaller Settlements.
H7	-	Housing in the Countryside Outside Settlements
H13	-	Sustainable Residential Design
H16	-	Car Parking
LA2	-	Landscape Character and Areas Least Resilient to Change
LA3	-	Setting of Settlements
NC1	-	Biodiversity and Development

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 Stapleton Group Parish Council has not indicated any intention of producing a Neighbourhood Plan.

2.5 The Unitary Development Plan and Core Strategy 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 92/0534/N – Temporary siting of a caravan whilst bungalow is built – approved 21st October 1992.

3.2 88/0129 – Siting for one dwelling – refused 23rd May 1998.

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

3.3 90/0589/0 – Site for bungalow – approved 13th December 1990.

3.4 92/0045 – Erection of retirement home – approved 31st March 1992.

4. Consultation Summary

Statutory Consultees

4.1 Welsh Water confirm there are no public sewers in the area.

Internal Council Advice

4.2 The Transportation Manager raises no objections, the response stating that access will make use of an existing vehicular access.

4.3 The Conservation Manager (Ecology) has responded to the application stating:

'I have managed to take in a visit to the site of the proposal this morning (16/7/14) and I inspected the buildings. They consist of rather dilapidated timber workshop sheds partially sitting on stone foundations of an old cattle byre and having a corrugated iron roof. My inspection for evidence of bats and nesting birds revealed no evidence of either. There was some indication that nesting birds might have used it in previous years but I believe that the conditions are poor for bats to establish a regular roost. There is some potential for crevice dwelling bats on an occasional basis but I view this as marginal given the hot temperatures in summer which would prevail within the flimsy framework of the building. The nature of the building would mean that conditions during winter would not be propitious for hibernation'.

The response indicates that in the event of approval of the application informative notes should be attached to any approval notice issued reminding the applicant of the provisions of the Countryside and Wildlife Act 1981.

5. Representations

5.1 Stapleton Parish Council has responded to the application stating *'no objection to the proposed development, given that it is infill and replaces an existing building'*.

5.2 Two letters of objection have been received. The objections raised can be summarised as follows:-

- Proposal is contrary to Policy RA2, (Core Strategy), with regards to plot size, not a brownfield site, not a high quality design.
- The proposed development will not contribute towards the supply of affordable housing.
- It makes use of part of an existing rural garden.
- Plot size indicates 720sqm above the stated limit of 350sqm.
- Access to the site has poor visibility is steep and not suitable for the aged.
- Unsustainable location for development there are no shops in Kinsham so car use would remain essential for normal living. It therefore follows that Kinsham is not suitable for the elderly.
- This is an elevated and visible site.
- The garden of The Forge has already been hived off for the building of Rylands View and further sub-division would erode the amenities of both dwellings.

5.3 Twelve letters in support of the application have been received. The comments made can be summarised as follows:

- Site is in a secluded location.
- Proposal will visually improve aspect of this section of the village.
- There will be no residential amenity issues as a result of the development.
- Development will allow a long term resident to remain in the village.
- Development is of a scale that will be a welcome addition to the existing housing stock.
- Housing for retired persons is overlooked in planning policies.

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

6. Officer's Appraisal

The Principle

6.1 The proposal is for the erection of a single-storey detached dwelling on land that forms part of the residential curtilage of Ryland's View. Policy H7 of the UDP does not support new residential development, unless there is an essential and functional need to live on site in connection to a rural business or the development is for a replacement dwelling comparable in size and scale with an existing dwelling. The proposal is therefore contrary to the restraint aspects of this policy which seeks to prevent unwarranted development in the open countryside.

6.2 It is the Council's acknowledged position that the housing delivery policies of the UDP are, in the context of a housing land supply deficit, out of date. The Council is currently failing to provide a 5 year housing land supply, plus a 5% buffer, which must be met by all local authorities in accordance with paragraph 47 of the NPPF. As such, proposals relating to housing in the countryside outside settlements must be considered primarily with the NPPF taking precedence as a significant material consideration. 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 permission for sustainable development unless:

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

6.3 It is clear therefore that complete reliance cannot be placed upon UDP policies which would categorise the application site as being in open countryside. Instead it is necessary to consider whether, in the context of a housing land supply deficit, the application is one that would promote sustainable development as envisaged by the NPPF. If a proposal is held to represent sustainable development then the NPPF presses for the prompt grant of planning permission unless "any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a whole or specific policies of the Framework indicate that development should be restricted." (Paragraph 14 NPPF). The footnote to paragraph 14 identifies that the specific policies referred to are those that operate to protect specified designations, including AONBs and other heritage assets.

6.4 The NPPF states that a presumption in favour of sustainable development should be seen as a golden thread running through both plan making and decision taking. It indicates that to achieve sustainable development, economic, social and environmental gains should be sought

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

jointly and simultaneously through the planning system. It refers to the three dimensions of sustainable development (economic, social and environmental) and confirms that in pursuit of sustainable development these dimensions are to be considered holistically. It is clear that NPPF paragraph 14 envisages a 'planning balance' with the presumption in favour of sustainable development taking effect unless significant and demonstrable harm can be identified. Paragraph 55 of the NPPF refers to promoting sustainable development in rural areas, indicating housing should be located where it will enhance or maintain the vitality of rural communities, such as where there are groups of smaller settlements and that development in one village may support services in a nearby village but new isolated homes in the countryside should not be supported unless there are special circumstances. It is considered that this development does not fulfil any special circumstances as outlined in paragraph 55 of the NPPF.

- 6.5 The site for the development forms part of the residential curtilage to a detached dwelling and this site is adjoined on its northern side by the curtilage to another dwelling in an area with no direct link to any recognised settlement with community facilities. The nearest settlements are Presteigne, Shobdon and Lingen. Kinsham, within which the site is situated, is a small hamlet of dispersed dwellings and is not considered to be a sustainable location and as such the presumption in favour of such development is not engaged.
- 6.6 Reference has been made in letters of objection to the application to Policy RA2: Herefordshire Villages, in the Core Strategy. The Inspector in his decision to the *Home Farm, Hereford: APP/W1850/A/13/2192461*, decision dated 10 January 2014 provides a clear indication that although the Council currently cannot demonstrate a 5 year housing supply, in consideration of the housing land supply position he recognised that the housing land supply is a matter to be determined as part of the forthcoming Examination of the Core Strategy. Therefore, no weight can be given to Core Strategy proposals at this stage
- 6.7 The application is made in outline with all matters reserved for future consideration. Officers are content, however, that it would be possible to design a dwelling that would preserve the existing levels of residential amenity at adjoining properties. In this respect care would have to be taken to ensure that siting, scale, and orientation of windows is carefully considered and this can be considered fully at the 'Reserved Matters' stage should permission be granted.

Other Matters

- 6.8 The Transportation Manager raises no objections and the applicant has confirmed that if planning permission is granted work would commence within two years, therefore a Section 106 Planning Obligation is not required.

Conclusions

- 6.9 It is considered that the proposal represents an unsustainable form of development in an open countryside location and no justification has been provided in order to comply with criteria of Policy H7 of the UDP and in particular paragraph 55 of the NPPF.
- 6.10 Therefore it is considered that the development is not compliant with the NPPF or the UDP and the recommendation is one of refusal.

RECOMMENDATION

That planning permission be refused for the following reason:

- 1. In the absence of any justification or evidence of exceptional circumstance, the proposal represents an unsustainable form of development that would place entire reliance upon the use of a car to access services and facilities. Accordingly it is considered that the**

development is contrary to Policies S1 and H7 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework.

Informative

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 by identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reason(s) for refusal, allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal. The Local Planning Authority is willing to provide pre-application advice in respect of any future application for a revised development.

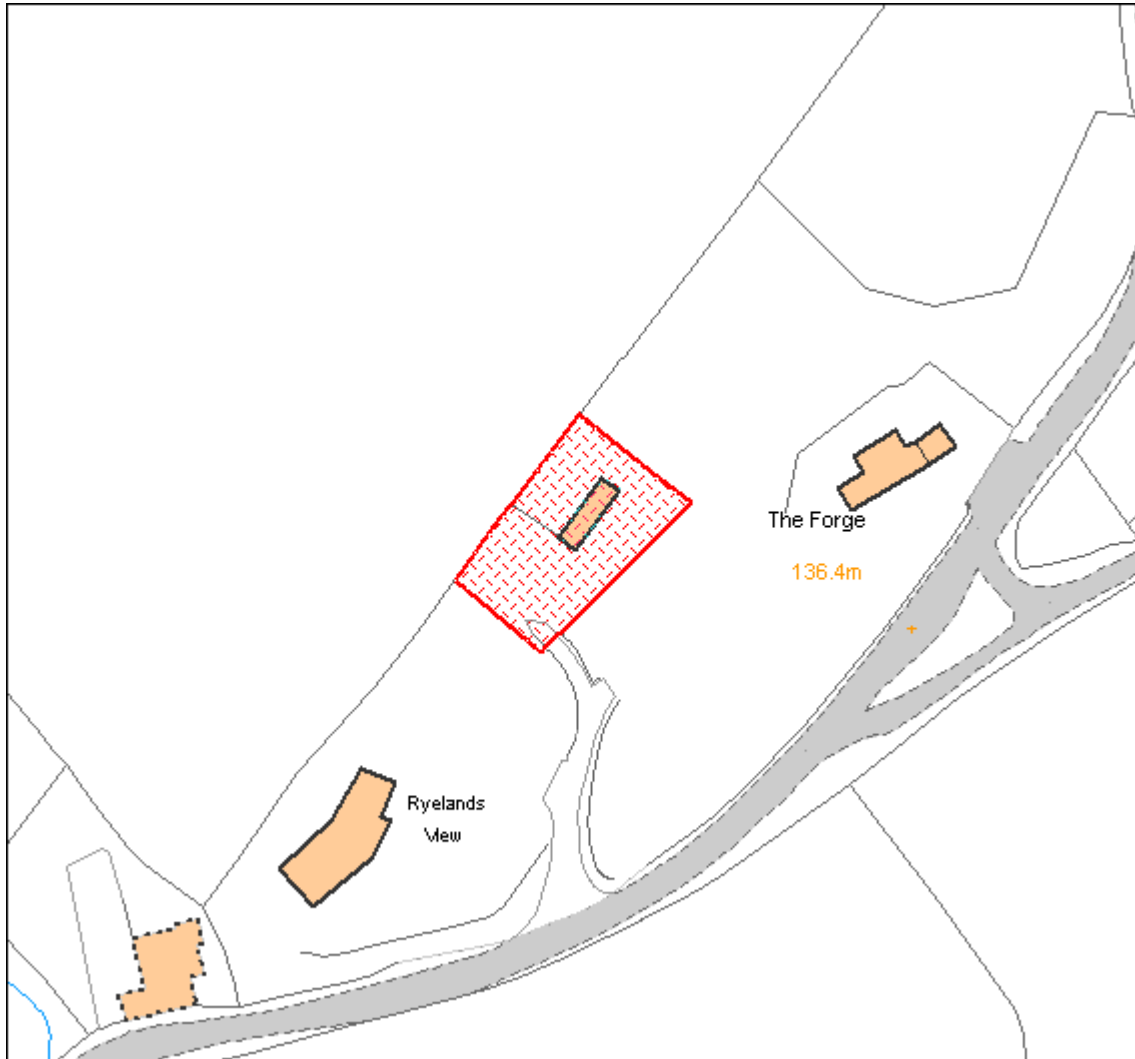
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 141314/O

SITE ADDRESS : LAND AT RYELANDS VIEW, KINSHAM, PRESTEINGE, HEREFORDSHIRE

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



MEETING:	PLANNING COMMITTEE
DATE:	6 AUGUST 2014
TITLE OF REPORT:	P141230/F - PROPOSED ERECTION OF A DETACHED DWELLING AT COUNTIES VIEW, MUCH BIRCH, HEREFORD, HR2 8HL For: Mr Jenkins per Mr M Jenkins, Malcolm Jenkins Associates, 96-98 High Street, Shepperton, Middlesex, TW17 9AU
WEBSITE LINK:	https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=141230&search=141230

Date Received: 22 April 2014

Ward: Pontrilas

Grid Ref: 350098,231058

Expiry Date: 17 June 2014

Local Member: Councillor J Norris

1. Site Description and Proposal

- 1.1 The application site lies within a run of four dwellings on a north-south axis on the northern fringe of Much Birch immediately to the east of the C1263. Much Birch School lies on the opposite side of the road some 100 metres to the south. The site is currently a side garden of Counties View, the most southerly of this run of dwellings. Tremazzo Villa is a dormer bungalow which lies immediately to the north of the site.
- 1.2 The application is for the erection of a dormer bungalow within the garden of Counties View. The dwelling would be 17.99 metres in width, 8.77 metres deep and 7.56 metres in height. A shallow gable would project from the northern end of the principal elevation with two gabled dormers provided to increase roof space. Two more dormers would be provided to the rear and another to the south-east roof plane. A single bay integral garage is at the southern extent of the building. The dwelling would be primarily clad in brick under a plain clay tile roof with the feature projecting gable being rendered.
- 1.3 The ridge of the proposed dwelling would be approximately 1 metre below that of Tremazzo Villa to the north. At its closest point, the proposed dwelling would be 8m from Tremazzo Villa. The pitch of the north-west plane of roof is approximately 50 degrees and as such, the highest part of the proposed dwelling would be 11.5 metres from the south elevation of Tremazzo Villa. Tremazzo Villa has a number of ground floor windows, the tops of which are approximately 0.6 metres above the height of an intervening close boarded fence.
- 1.4 The ridge of the proposed dwelling would be approximately 0.6 metres below the ridge of Counties View to the south. At its closest point, the dwelling would be 7m from Counties View. The south-east roof structure includes a dormer window and as such little relief is offered by the hipped roof. Counties View has two single pane ground floor windows though no first floor windows.

Further information on the subject of this report is available from Mr Matt Tompkins on 01432 261795

2. Policies

2.1 National Planning Policy Framework (NPPF)

The following sections are of particular relevance to this application:

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
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>

- 2.5 The emerging Core Strategy is at an early stage of preparation not yet having been submitted to the Secretary of State. A number of objections have been lodged against the Core Strategy's rural housing policies. For these two reasons the emerging Core Strategy is attributed minimal weight in the determination of this application in accordance with paragraph 216 of the NPPF.

3. Planning History

- 3.1 140212/FH - Proposed new access: Approved

131904/FH - Proposed new access: Refused – Reason: See 3.2

130847/FH - Demolition of garage and erection of two-storey extension: Approved

130079/FH - Demolition of existing garage and erection of two storey extension and provision of new access: Refused – Reason: See 3.2

SH840302PF - Erection of two houses: Refused – Reason: Contrary to the provisions of the local plan being outside of an identified settlement boundary.

- 3.2 The site has an extensive application history over the past two years. An extension and new access were originally refused on the basis that acceptable visibility splays for the access had not been demonstrated. This extension was subsequently reapplied for without the access and approved. Another application was made for the access which now demonstrated that suitable visibility could be provided and this was also approved.

4. Consultation Summary

- 4.1 The Council's Transportation Manager did initially object to the proposal stating that:

"The proposed parking and turning for the existing and proposed does not allow for suitable turning and parking. Due to the location and issues with parking during peak times, it is essential for parking to be catered for on site. With the information provided I recommend refusal as the proposed is detrimental to highway safety in this location.

To make the scheme work, the whole of the hedgerow needs to be removed and set back to give a clear 2.4m visibility splay across the frontage, this would allow for a small amount of growth which would then not impede vis.

The parking and turning areas do not work, the frontage of both properties would need to be kept clear for parking and turning.

If you are minded to approve please add the following conditions: CAC, CAE, CAD 5M, CAJ existing and proposed properties."

The Transportation Manager was satisfied that amended plans overcame these concerns but requested that gates not be provided on the proposed dwelling entrance to aid internal manoeuvrability.

5. Representations

5.1 Much Birch Parish Council objected to the application stating that:

“The PC object due to size and overbearing nature of the property in relation to the ones on either side. Concern RE absence (apparently) of Planning Notice displayed re the application.”

5.2 Objections have been received from 2 members of the public raising the following concerns:

- The dwelling is very large when it is considered that Counties View itself has permission to be extended.
- ‘Shoehorning’ in a dwelling into a period dwellings garden would not be aesthetically pleasing.
- There are parking problems in the area due to the site’s close proximity to the school.
- The parking issues would greatly increase the risk of road traffic accidents.
- The notification process is disappointing. The distance between the proposed bungalow and the sitting room window of Villa Tremezzo is c. 10m.

5.3 A number of other points were also raised regarding the way in which applications are advertised. I am however satisfied that the application was advertised correctly in accordance with planning law. It was noticed that the planning site notice was removed from site by persons unknown. Although this is outside of the Council’s control, the notice was re-erected and the 3 week public consultation period restarted.

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:-

<https://www.herefordshire.gov.uk/government-citizens-and-rights/customer-services-enquiries/contact-details?q=customer&type=suggestedpage>

6. Officer’s Appraisal

The Principle

6.1 The application site is to the north-east of the most northerly of four clusters of development which collectively make up the village of Much Birch. This cluster of development is predominantly nucleated around the junction between the A49, Tump Lane and the C1263 with slightly intermittent development extending along Tump Lane and the C1263.

6.2 The application site sits within a run of 4 dwellings which flank the eastern side of C1263. Whilst this small complex of dwellings sits 45 metres north of the School, between which are open fields, the dwellings relate to each other being on a consistent building line rather than appearing as individual wayside dwellings which one would usually find within the surrounding countryside. As such, and considering the small distance between these dwellings and the rest of the village, I consider this small complex of buildings to be a part of Much Birch. Furthermore, being flanked on both sides by existing residential development, this scheme would not extend development into the open countryside.

6.3 In the context of the UDP, residential development within Much Birch is limited to infill where the gap along the frontage is limited to less than 30 metres, where the plot is less than 350 square metres and where the proposed dwelling would have a floorspace no greater than 100 square metres. In this instance, the plot size is approximately 950 square metres and the gap between existing dwellings is 34 metres. The proposed floorspace is greater than 100 metres. As such, the proposal is contrary to the UDP.

- 6.4 Having established this conflict with the UDP, it is necessary to determine whether there are any other material planning considerations which indicate that the proposal may be acceptable. The NPPF is a material planning consideration (paragraphs 13 and 196) and was attributed full weight in March 2013 (paragraph 214).
- 6.5 The UDP remains the adopted local plan though the weight which can be attributed to each policy is determined by its level of conformity with the NPPF. Paragraph 47 of the NPPF requires local authorities to have a five year supply of land for housing at all times. The Council's published stock of housing land is less than the required five years, a position recently upheld at appeal. The weight which can be attributed to local policies that stipulate the geographical limit of residential development are therefore afforded significantly reduced weight (paragraph 49) and UDP Policy H6 cannot be relied upon in this instance. Instead the principle of residential development is determined by the sustainability of the site with regards to its proximity to facilities and services and the site's physical relationship with the local pattern of development.
- 6.6 The Government's definition of Sustainable Development is considered to be the NPPF in its entirety though paragraph 17 lays out a concise set of 'core planning principles'. Amongst these principles are that decision taking should:
- 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; and
 - actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus development in locations which are or can be made sustainable.
- 6.7 UDP Policy S1 requires, amongst other things, that development proposals should respect patterns of local distinctiveness and landscape character in both town and country. Policy DR1 similarly requires that development should promote or reinforce the distinctive character of the locality. Policy H13, supported by DR1, requires consideration of the design of residential development and its potential to impact on the locality in terms of neighbouring residential amenity, landscape character, the environment and highways safety. UDP policies H13, DR1 and S1 also require development to include energy conservation and renewable energy generation techniques. These policies are generally consistent with the advice on design and distinctiveness set out in the NPPF (chapter 7) and so continue to attract considerable weight.
- 6.8 As the proposal is for the provision of a dwelling within a residential garden development must be specifically considered in the context of paragraph 53 of the NPPF and whether or not the proposal constitutes 'inappropriate garden grabbing'.

Sustainability

- 6.9 Much Birch benefits from a footpath stretching the entire length of the village and which passes by the application site. This route is however unlit. Much Birch offers a range of facilities including a primary school (approximately 150m from the site), hotel (400m), church (680m), community centre (700m), doctors surgery (700m), car garage (1750m), pub (1830m) and a relatively comprehensive bus service to and from the more extensive facilities at Hereford.
- 6.10 I consider there to be opportunity for occupiers of the proposed dwelling to access both a good range of local facilities and the more extensive range of facilities on offer in Hereford by a method other than the private motor vehicle. For this reason the site is considered to be sustainably located as required by UDP Policies S1 and DR1 and the NPPF where paragraph 17 is of particular pertinence.

Local distinctiveness, design and landscape impact

- 6.11 The application site is within a run of 4 dwellings which flank the C1263. The dwellings are visible from the public realm with screening limited to 3 metre high confiner hedges. The 3 buildings at the north of this cluster have modest gaps between them, whereas a larger gap is between the three northernmost dwellings and Counties View. The buildings within this cluster are varied in size, form and design. There is no particular architectural style within this run of dwellings and the two dwellings either side of the application site share very few characterisers. Counties View is a large rendered two-storey dwelling with projecting features, whilst Tremezzo Villa is a brick built bungalow.
- 6.12 The proposed development successfully incorporates the prevailing features of both dwellings resulting in a 'mid-point' that respects the two existing dwellings, improving the legibility of this run of dwellings. Furthermore, the resultant space between the proposed dwelling and the two dwellings either side of it would be similar to the gaps between the three dwellings at the northern end of this cluster. As such, I consider the proposal to reflect the distinctiveness of the locality and to represent good design as required by the NPPF and UDP Policy H13.
- 6.13 There is an extant planning permission on the adjacent site at Counties View for a two storey extension to the north elevation (130847/FH). It is considered that if both the extension to Counties View and the proposed dwelling were built that resultant development would appear cramped to the detriment of the appearance of the locality. As such should Members resolve to grant planning permission, it is recommended that this be subject to a legal agreement requiring the rescinding of planning permission 130847/FH. This has been communicated to and agreed by the applicant's agent.
- 6.14 In relation to UDP Policy LA2, I find the proposal to have a modest impact on the landscape character. The local appearance is of a semi-rural nature when viewed from the front (west) of the plot and the proposed dwelling is of a design which would uphold this. Although the front hedgerow would be translocated to facilitate visibility, this isn't considered to be of significant detriment to the streetscene.
- 6.15 To the rear, the character is rural where agricultural fields stretch away from the application site and the rest of the village in an easterly direction. Views of the rear of the proposed dwelling would be available from mid to long range public vantage points although the proposed dwelling would be seen in the context of existing residential development. As such, the impact on the character and appearance of the area when viewed from the rear of the site would also be modest. The NPPF requires development to make the most of opportunities available and to improve biodiversity and wildlife habitats. Here opportunity exists to provide substantial vegetation along the rear boundary of the site. Planting would filter views of the dwelling from the rear of the site helping to uphold the rural characteristics of the locality. Such provision will be required via condition should planning permission be granted.
- 6.16 The application site is part of an existing residential garden. However, for the aforementioned reasons and since both the proposed dwelling and Counties View would have gardens which are of a size commensurate to local plot sizes, I find the proposed development not to represent inappropriate development of a garden as required by paragraph 53 of the NPPF.

Residential amenity and privacy

- 6.17 Given that there are no windows proposed to the north elevation, the dwelling would not impact on the privacy of occupiers of Tremezzo Villa. In terms of amenity, the windows within the side elevation of Tremezzo Villa offer secondary glazing to a living room - windows exist to the front and rear elevation also.

- 6.18 Although not defined in policy, a guideline for assessing the impact which a development would have on a neighbour's level of daylight when an extension directly faces the affected window is the 25 degree rule. This approach proposes a theoretical line be drawn from the centre of each affected window at an angle of 25 degrees. If the extension is entirely within the area created between the horizontal and 25 degree line, then it can be considered that the proposed extension would not unduly reduce the daylight levels at the neighbouring property.
- 6.19 In this instance, the angle from the centre of the closest window to the ridge of the proposed dwelling is 25.4 degrees and as such, a minimal portion of the development falls outside of the 25 degree area. However, given that the roof is hipped (minimising the volume of building falling outside of the 25 degree zone) and that the glazing on Tremezzo Villa is secondary to that on the rear and front of the dwelling, I find that the proposed dwelling would not unduly reduce daylight levels within the Tremezzo Villa.
- 6.20 Given the small scale and secondary nature of the two windows on the side (north elevation) of Counties View, I do not consider the proposed dwelling to unduly reduce daylight levels experienced by Counties View. In terms of privacy, a first floor window into an ensuite would be provided, though this would be obscure glazed. No ground floor windows are to be provided. Thus there would be no direct sightline from one dwelling into the other.
- 6.21 On the basis of the above, the scheme would not unduly impact on the privacy and amenity of neighbouring dwellings.

Highways

- 6.22 The Transportation Manager is content that visibility is acceptable in both directions at a point 2.4 metres back from the highways edge. It is considered that providing ample parking in this location is paramount given the peak on road parking issues in relation to Much Birch Primary School 150 metres to the south. Parking levels as proposed are acceptable at both Counties View and the proposed dwelling with ample space to allow one to turn a vehicle so that it may enter and leave the site in a forward gear. Although the Transportation Manager requested that the gates at the entrance to the proposed dwelling be omitted from the scheme I do not consider their presence to be such a hindrance to manoeuvrability as to severely impact on highways safety. The proposal is therefore in accordance with UDP Policy DR3 and the NPPF, paragraph 32 being of particular pertinence.

Conclusion

- 6.23 There would be extremely limited environmental harm associated with this application in terms of landscape impacts. In applying the planning balance I find this harm to be outweighed by the social and economic benefits of the scheme attributed to its modest contribution to the countywide housing supply, the probable increased use of local facilities and the employment of local tradesmen during construction. The application is therefore recommended for approval subject to a legal agreement rescinding planning permission 130847/FH and the conditions laid out below.
- 6.24 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 one year of the date of an outline permission being granted. This submission states a preference for a one year permission and as such the requirement of Section 106 contribution is waived.

RECOMMENDATION

Subject to the completion of a Section 106 Town & Country Planning Act 1990 agreement securing the removal of planning permission 130847/FH officers named in the Scheme of Delegation to Officers are authorised to grant planning permission, subject to the conditions below and any other further conditions considered necessary

- 1. **A01 Time limit for commencement (full permission)**
- 2. **B02 Development in accordance with approved plans and materials**
- 3. **C01 Samples of external materials**
- 4. **F14 Removal of permitted development rights**
- 5. **G10 Landscaping scheme**
- 6. **G11 Landscaping scheme - implementation**
- 7. **I16 Restriction of hours during construction**
- 8. **H03 Visibility splays**

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.**

Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 141230/F

SITE ADDRESS : COUNTIES VIEW, MUCH BIRCH, HEREFORD, HR2 8HL

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MEETING:	PLANNING COMMITTEE
DATE:	6 AUGUST 2014
TITLE OF REPORT:	<p>P141087/F - PROPOSED CONSTRUCTION OF A DETACHED 4 BED DWELLING AND GARAGE BLOCK CONTAINING ARTIST STUDIO AT LAND AT GARD Y FFIN, GARWAY, HEREFORDSHIRE, HR2 8RE</p> <p>For: Mrs Wildey per Mrs Anne Wildey, Gardd Y Ffin, Garway, Hereford, Herefordshire HR2 8RE</p>
WEBSITE LINK:	https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=141087&search=141087

Date Received: 7 April 2014

Ward: Pontrilas

Grid Ref: 346507,222466

Expiry Date: 26 June 2014

Local Member: Councillor J Norris

1. Site Description and Proposal

- 1.1 The application site is within the garden area of Gardd y Ffin, immediately to the west of the U71412 at Garway. Garway Common lies to the north of the site, open agricultural fields to the west, Gardd y Ffin to the south and the U71412 to the east. The site is well bound on all sides by tree belts and copses, save for the southern boundary which is currently open to the reduced garden space of Gardd y Ffin. The facilities within Garway are located between 300 and 800 metres to the north and north-west of the site.
- 1.2 The application proposes the erection of a two storey dwelling 26 metres to the north of Gardd y Ffin. The dwelling would be 'L' shaped and face east with a wood effect conservatory within the crook of the 'L'. The dwelling would be 7 metres in height, 14 metres wide and 7.5 metres deep. The projecting gable would extend a further 1.5 metres from the rear of the dwelling and the conservatory 3.5 metres. The dwelling would be rendered on a brick plinth under a natural slate roof. Brick detailing would also be employed at the window head and sills.
- 1.3 A garage would be provided immediately adjacent and perpendicular to the dwelling and would be clad in timber boarding under a slate roof. The garage would measure 9 metres x 6.4 metres in plan form and 5.5 metres in height.
- 1.4 Access would be gained via an existing drive which currently leads into a modest, roadside garage some 50 metres to the south of the proposed dwelling. This modern garage would be demolished to allow a driveway to the dwelling and garage. The driveway would be gravelled to soften its impact and to aid with drainage.
- 1.5 In terms of landscaping, a pond would be provided to the rear of the dwelling, with silver birches and sycamore trees to be planted to the north. The curtilage of the proposed dwelling

Further information on the subject of this report is available from Mr Matt Tompkins on 01432 261795

and Gardd y Ffin would be defined by a new post and wire fence and hedgerow with a post and rail fence would skirt the western side of the driveway.

2. Policies

2.1 National Planning Policy Framework (NPPF)

The following sections are of particular relevance to this application:

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
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

Further information on the subject of this report is available from Mr Matt Tompkins on 01432 261795

- 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 emerging Core Strategy is at an early stage of preparation not yet having been submitted to the Secretary of State. A number of objections have been lodged against the Core Strategy's rural housing policies. For these two reasons the emerging Core Strategy is attributed minimal weight in the determination of this application in accordance with paragraph 216 of the NPPF.

3. Planning History

- 3.1 SH970953PO - Erection of 2 dwellings: *Withdrawn*
- 3.2 SH980246PO - Erection of 2 dwellings: Refused as the application site fell outside of defined village boundaries of the incumbent local plan and was therefore within open countryside without justification. The landscape impact of the proposal was therefore unacceptable.

4. Consultation Summary

- 4.1 The Transportation Manager initially objected to the application stating the following:

"The application is not acceptable in highway terms due to the visibility, the splay to the North is on a bend, the splay crosses land outside the applicants ownership which needs to be maintained, without the maintenance, the splay would be reduced which puts the safety of the highway user at risk."

If this is addressed, then I would have no objection as the layout is acceptable though the scheme would benefit from a passing place due to the long drive.

However, upon receiving clarification regarding the upkeep of visibility splays on 23rd July 2014, the Transportation Manager rescinded his objection as follows:

"Following a site visit and clarification regarding the common and the position regarding maintenance of the visibility splays, I have no objection to the application if you are minded to approve, please condition parking, turning within the site."

- 4.2 The Conservation Manager (Ecology) did not object to the application stating that:

"I have read the preliminary ecological appraisal and would agree with the findings. The ecological assessment for bats and great crested newts finds a marginal case for potential disturbance of these protected species. I think the proposals for ecological mitigation are adequate given the potential habitat for them. I also think there is potential for ecological enhancement of the site and I would like to see this within a condition in addition to the mitigation proposals."

Upon receiving two method statements, one for bats and one for birds, the ecologist stated that:

"I would be content that these two method statements and the appointment of an ecological clerk of works would satisfy the planning condition. In the bat statement there is a confirmation

required as to whether a temporary bat box will be required but this would be resolved easily and I do not have a problem with it.

On the basis of the detailed information provided I would not be requiring a condition.”

4.3 Welsh Water does not object to the proposal but state that:

“As the applicant intends utilising a private treatment works we would advise that the applicant contacts Natural Resources Wales who may have an input in the regulation of this method of drainage disposal.

However, should circumstances change and a connection to the public sewerage system/public sewerage treatment works is preferred we must be re-consulted on this application.”

4.4 Herefordshire Nature Trust did not provide comment

5. Representations

5.1 Garway Parish Council resolved not to object to the application stating that:

“Garway Parish Council support this application with a majority vote at the Parish Council meeting on 16th June 2014”

5.2 Four letters of objection were received from members of the public raising the following concerns:

- That the proposal would result in the loss of large garden space which should be retained in village locations.
- That the house is too large to meet a local need for smaller units.
- The house is contrary to UDP Policy RA2 being larger than 100 square metres.
- The resultant dwelling would be of too great a value.
- There is no need for an artists studio.
- No tree survey has been undertaken of the trees within the adjacent common.
- The application site is outside of Garway’s building envelope.
- There is no need for the dwelling.
- That the proposal requires a crossing across the common and there is no declaration on the application form that the land owner has been notified.

5.3 Another 2 objections were received though one was later withdrawn and the other requested that its contents and sender details be kept confidential.

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:-

<https://www.herefordshire.gov.uk/government-citizens-and-rights/customer-services-enquiries/contact-details?q=customer&type=suggestedpage>

6. Officer's Appraisal

The Principle

- 6.1 The application site is located within a small cluster of dwellings some 150 metres to the south of the main body of Garway. I consider the main mass of development to be that which flanks either side of the C1223 on an east-west axis. The satellite cluster of dwellings within which the application site lies makes up a not insignificant proportion of residential development within Garway. On this basis, the application falls to be firstly considered against UDP Policy H6 which sets parameters for development in small settlements rather than Policy H7 which sets a general presumption against development in the open countryside.
- 6.2 In the context of the UDP, residential development within small settlements is limited to infill where the gap along the frontage is limited to less than 30 metres, where the plot is less than 350 square metres and where the proposed dwelling would have a floorspace no greater than 100 square metres. The nature of this application site meets none of the aforementioned criteria being 2715 square metres in area with no perceivable frontage given the lack of a dwelling to the north. The proposal is therefore contrary to local planning policy.
- 6.3 Having established this conflict with the UDP, it is necessary to determine whether there are any other material planning considerations which indicate that the proposal may be acceptable. The NPPF is a material planning consideration (paragraph 13 and 196) and was attributed full weight in March 2013 (paragraph 214).
- 6.4 The UDP remains the adopted local plan though the weight which can be attributed to each policy is determined by its level of conformity with the NPPF. Paragraph 47 of the NPPF requires local authorities to have a five year supply of land for housing at all times. The Council's published stock of housing land is less than the required five years, a position recently upheld at appeal. The weight which can be attributed to local policies that stipulate the geographical limit of residential development are therefore afforded significantly reduced weight (paragraph 49) and UDP Policy H6 cannot be relied upon in this instance. Instead the principle of residential development is determined by the sustainability of the site with regards its proximity to facilities and services and the sites physical relationship with the local pattern of development.
- 6.5 The Government's definition of sustainable development is considered to be the NPPF in its entirety though paragraph 17 lays out a concise set of 'core planning principles'. Amongst these principles are that decision taking should:
- 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; and
 - actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus development in locations which are or can be made sustainable.
- 6.6 UDP Policy S1 requires, amongst other things, that development proposals should respect patterns of local distinctiveness and landscape character in both town and country. Policy DR1 similarly requires that development should promote or reinforce the distinctive character of the locality. Policy H13, supported by DR1, requires consideration of the design of residential development and its potential to impact on the locality in terms of neighbouring residential amenity, landscape character, the environment and highways safety. These policies are

generally consistent with the advice on design and distinctiveness set out in the NPPF (chapter 7) and so continue to attract considerable weight.

- 6.7 As the proposal is for the provision of a dwelling within a residential garden development must be specifically considered in the context of paragraph 53 of the NPPF and whether or not the proposal constitutes 'inappropriate garden grabbing'.

Sustainability

- 6.8 The application site lies within a reasonable distance of all facilities within Garway, namely the public house (350m), primary school (530m) and well utilised village hall (570m) and as such walking would be an option for everyday activities. Although a bus stop is located within the village just 250 metres from the application site, this service only provides two trips a day to and from Hereford and the more extensive facilities therein. Furthermore, the journey time exceeds an hour rendering it unlikely that one would make frequent use of this service.
- 6.9 While there is no footway and the narrow lane is unlit, I do not consider that walking to Garway would place residents in any significant danger as the UC71412 is not busy with traffic and the nature of the road keeps vehicle speeds relatively low. The road benefits from flat grass verges which provide a place of refuge if required. The route is often used by occupants of existing dwellings along the UC71412 to access Garway by foot.
- 6.10 The NPPF, paragraphs 29 & 55, acknowledges that in rural areas use of the private motor vehicle will likely be necessary for some journeys. It is inevitable that in this location this will be the case. However, I find there to be a reasonable level of facilities locally and opportunity to access them in a sustainable manner and as such consider the application site to be sustainably located.

Local distinctiveness, design and landscape impact

- 6.11 The application site sits to the north of a solitary dwelling – Gardd y Ffin. Six dwellings are on the opposite side of the lane. The local settlement pattern is of linear development both specific to this cluster of dwellings (north-south axis) and within the village of Garway as a whole (east-west axis). The application site lies immediately adjacent to the road and as such represents an extension to the linear form of development. The application site is located toward Garway from Gardd y Ffin and as such development would not extend into the open countryside. It is also worth noting that given its containment to the north by Garway Common, a Special Wildlife Site, the potential acceptability of this proposal would not give rise to further development along the lane which would potentially erode a historically important gap between this cluster of development and the main mass of development at Garway.
- 6.12 More specifically, development within this cluster of development is characterised by dwellings of modest proportions and vernacular design within relatively large grounds. Keeping the two-storey dwelling as low as possible with a ridge height of just 7 metres and a depth of just 6.5 metres is a conscious attempt to adhere to this principle. The proposed materials are predominantly render and slate which are the main cladding material within this cluster of development and throughout Garway. I consider the scale, mass and detailed design of the proposed dwelling to uphold the characteristics of the locality.
- 6.13 The application site lies immediately adjacent to Garway Common. The southern most section of the common which abuts the site is covered by a dense copse of tall trees and the dwelling is of a modest 7 metre height. As such views of the proposed dwelling from the common would be non-existent. Views from the open agricultural fields to the west of the application site and the road to the east of the site would be more readily available, though still only fleeting due to narrower belts of trees bounding the site at these points. Where views were available they would be well filtered by vegetation. This in conjunction with the modest

rural proportions and design of the dwelling renders the impact on the landscape character and appearance of the wider locality an extremely modest one.

- 6.14 In terms of neighbouring privacy and amenity, the only dwelling which lies within the immediate vicinity of the application site is Gardd y Ffin. Being located 70 metres apart and orientated as to not face each other, I find the dwellings to be afforded a sufficient level of amenity and privacy.

Ecology

- 6.15 The Council's Ecologist agrees with the content of the preliminary ecological appraisal submitted with this application. The ecological assessment for bats and great crested newts finds a marginal case for potential disturbance of these protected species. The proposals for ecological mitigation are considered adequate given the potential habitat for them. There is also potential for ecological enhancement of the site. This information has since been submitted in the form of two method statements, the detail of which is considered acceptable. On this basis, the proposal is compliant with the ecological requirements of UDP Policies NC1, NC6 & NC7 and the NPPF.

Highways

- 6.16 The Council's Transportation Manager does not object to the application. The road onto which access is required is unclassified and subject to very low volumes of traffic. The nature of the road requires speeds to be low. The driveway is already in situ providing access to a garage but its use will be intensified from approximately 3 movements per day to 7 movements per day. Currently there is a need to reverse out of the garage on to the road a manoeuvre which will be naturally precluded by the turning space to be provided should this application be approved.
- 6.17 Visibility splays are 2.4m x 57.5m to the south and 2.4m x 61.5m to the north. These splays are themselves acceptable however there was some concern as to the applicant's ability to maintain visibility levels in perpetuity given that the splays are across land outside of the applicant's ownership. The land in question is Garway common. Both the existing owner and potential future owner of the common have provided representation to state that they are content for the maintenance of the strip of land at the edge of the common to continue. On this basis I am satisfied that splays are likely to be maintained in perpetuity and the proposal does not have severe highways safety implications and is therefore in accordance with the requirements of the NPPF (paragraph 32).

Other matters

- 6.18 A number of concerns were expressed by local residents for the necessity for one to traverse Garway Common to access the proposed dwelling. Although these concerns were initially echoed by the County Land Agent, upon consultation with the applicants, his view was that the access would be immediately adjacent to but not on Common Land. This is consistent with the Council's electronic maps and paper maps submitted by the applicant. It is worth noting that the driveway is already in place as it currently provides access to a garage relating to Gardd y Ffin. Only small alterations would be undertaken to this driveway.
- 6.19 Notwithstanding the above, the issue of whether or not the access would be across the common is a land ownership one and is not itself relevant to the planning process. An informative will however be attached to any permission given informing the applicants of their requirements to adhere to Section 194 of the Law of Property Act 1925 which covers Common Land. What I have considered in the above report is whether or not there would be an ecological or landscape impact as a result of the works; these are planning matters. Given

that the drive is in place, there would be no landscape or ecological impact in relation to the crossing of this land to access the proposed dwelling.

- 6.20 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 one year of the date of an outline permission being granted. This submission states a preference for a one year permission and as such the requirement of Section 106 contribution is waived.

Conclusion

- 6.21 There would be extremely limited environmental harm associated with this application in terms of landscape and biodiversity impacts. In applying the planning balance I find this to be outweighed by the social and economic benefits of the scheme attributed to its modest contribution to the countywide housing supply, the probable increased use of local facilities and the employment of local tradesmen during construction. The application is therefore recommended for approval.
- 6.22 Although each application falls to be determined on its own merits, I do not have concern for this application setting a precedent in terms of further development. The site is bound on two sides by the Common, open fields to the west and existing development to the south so would not give rise to unwelcomed ribbon development further along the lane. Furthermore, the garden within which the application site is located is uncharacteristically large, even for this rural locality.

RECOMMENDATION

That planning permission be granted subject to the following conditions:

- 1. A01 Time limit for commencement (full permission)**
- 2. B02 Development in accordance with approved plans and materials**
- 3. F14 Removal of permitted development rights**
- 4. An appropriately qualified and experienced ecological clerk of works shall be appointed (or consultant engaged in that capacity) to oversee the ecological mitigation work outlined within the 'Protected Species Working Method Statement in respect of great crested newts, reptiles and nesting birds' and 'Protected Species Working Method Statement in respect of bats' both undertaken by Countryside Consultants dated 15/07/14.**

Reasons: 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 Herefordshire's Unitary Development Plan in relation to Nature Conservation and Biodiversity and to meet the requirements of the NPPF and the NERC Act 2006

- 5. I16 Restriction of hours during construction**
- 6. G11 Landscaping scheme - implementation**

Further information on the subject of this report is available from Mr Matt Tompkins on 01432 261795

7. All demolition works shown on approved plan 678-2 shall be undertaken prior to the first occupation of the hereby approved dwelling.

Reason: To protect the visual amenity of the locality in accordance with Unitary Development Plan Policy DR1 and the National Planning Policy Framework.

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.

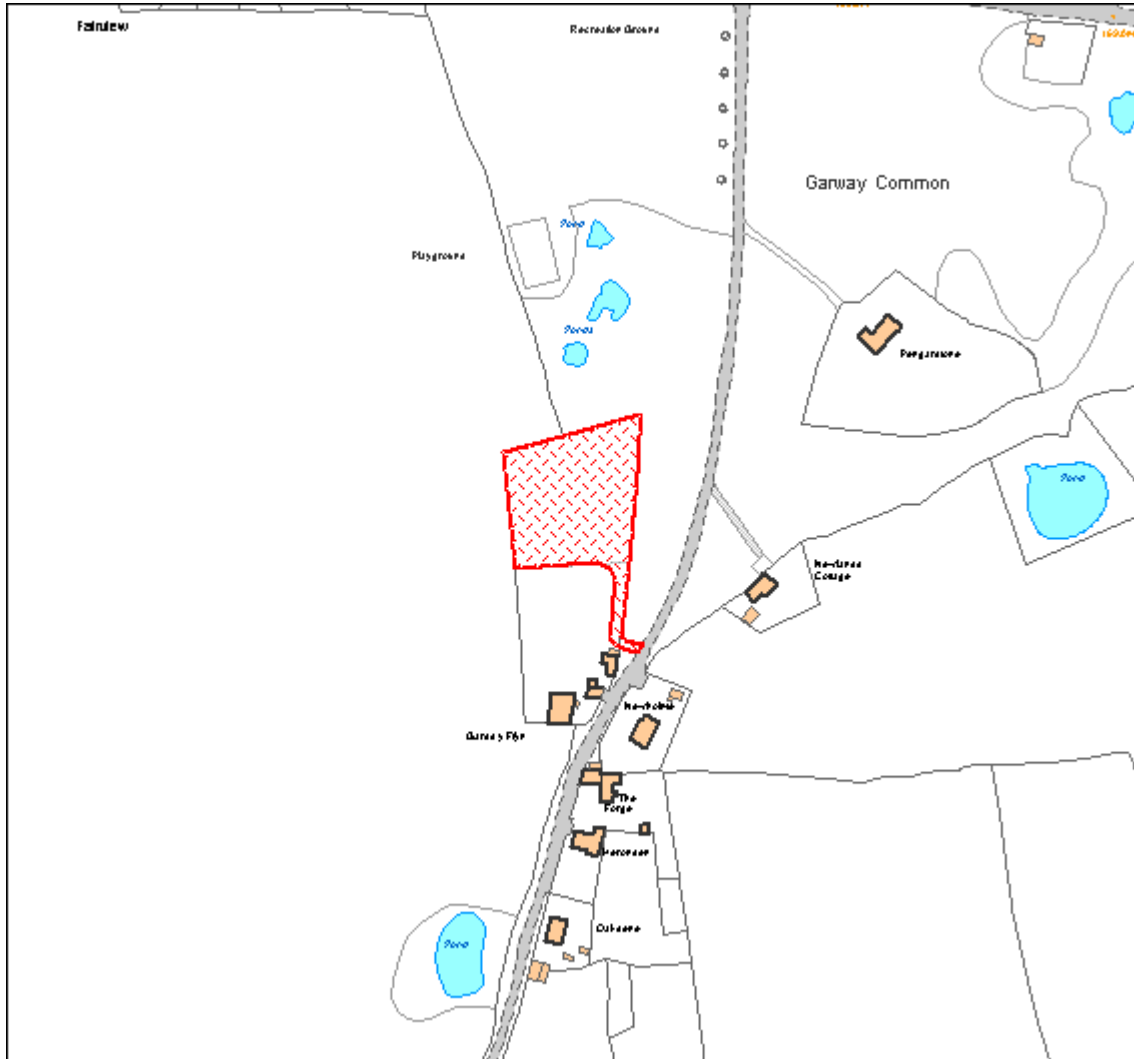
2. **HN20 Common land**

Decision:

Notes:

Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 141087/F

SITE ADDRESS : LAND AT GARDD Y FFIN, GARWAY, HEREFORDSHIRE, HR2 8RE

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MEETING:	PLANNING COMMITTEE
DATE:	6 AUGUST 2014
TITLE OF REPORT:	P141489/F - PROPOSED HOUSE WITH GARAGE/WORKSHOP AT LAND ADJACENT TO CAE DUFF, GARWAY COMMON, HEREFORD, HR2 8RF For: Mr Atkinson per Mr Charles Grylls, 2 Hillcroft Villas, Crofts Lane, Ross-On-Wye, Herefordshire, HR9 7AB
WEBSITE LINK:	https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=141489&search=141489

Date Received: 7 May 2014

Ward: Pontrilas

Grid Ref: 346613,222731

Expiry Date: 2 July 2014

Local Member: Councillor J Norris

1. Site Description and Proposal

- 1.1 The application site is the eastern portion of garden space at Cae Duff, located at the eastern extent of Garway immediately to the north of the C1239. Garway Common is to the south with the main body of the village to the west within which local facilities and services are located. The site is currently a formal garden space, with a few attractive, though not locally important trees within and bounding the land. An outbuilding of a temporary appearance lies between the garden area and Cae Duff.
- 1.2 The application seeks permission for the erection of one two-storey dwelling on the site. The dwelling would be 10.4 metres x 8.4 metres in plan form and 7.7 metres in height. It would be built to meet Passivhaus standards and be clad in timber boarding under a slate roof. Hot water photovoltaic panels would be on the southern highway fronting roof plane.
- 1.3 A small ancillary outbuilding would be to the fore and east of the dwelling and utilised as a workshop and garage. The outbuilding would be 6.5 metres x 5.59 metres in plan form and 4.5 metres in height. It would be clad in locally sourced stone under a slate roof.
- 1.4 The existing outbuilding which relates to Cae Duff would be removed from site. Access to the newly created plot would be via the existing driveway which serves Cae Duff. A separate drive would branch off the communal portion of drive almost immediately after one leaves the highway. 4 trees would be removed with replacement planting taking place to the rear of the site.

2. Policies

- 2.1 National Planning Policy Framework (NPPF)

The following sections are of particular relevance to this application:

Further information on the subject of this report is available from Mr Matt Tompkins on 01432 261795

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
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>

2.5 The emerging Core Strategy is at an early stage of preparation not yet having been submitted to the Secretary of State. A number of objections have been lodged against the Core Strategy's rural housing policies. For these two reasons the emerging Core Strategy is attributed minimal weight in the determination of this application in accordance with paragraph 216 of the NPPF.

Further information on the subject of this report is available from Mr Matt Tompkins on 01432 261795

3. Planning History

3.1 None applicable to this application.

4. Consultation Summary

4.1 The Council's Transportation Manager did not object to the application but requested the use of conditions to ensure parking provision was acceptable:

"The visibility across the frontage is acceptable if the proposed development can accommodate exiting in forward gear. The proposed layout doesn't do this, the new build can be accommodated by minor changes to the layout. The existing is more difficult to ascertain without detailed plans. The scheme would benefit from a shared drive without gates, parking and turning is essential in this location, parking needs to be for the size of development.

I believe that a suitable access with parking and turning can be provided though the detail provided does not provide such an access."

4.2 The Council's Ecologist did not object to the application stating that:

"I have read the ecological report from Countryside Consultants dated April 2014 and accept its findings. The development would appear to offer a low risk of impact to protected species and the recommendations for mitigation through reasonable avoidance measures for great crested newts. These measures can be implemented as the site is prepared and can be included as a compliance condition if the application is given approval"

4.3 Herefordshire Nature Trust did not provide comment

4.4 The County Land Agent did not object to the proposal but stated that:

"The only point that I would make concerns the access across the common: It would appear that the applicant has a vehicular access for all purposes, and as such there is a right for him to have a free access based on his present one to the new house provided that the present one is legal, adequate and does not need widening. If it does need widening then it will be up to the owner of the common whether or not he grants permission. I have been informed that the access is long standing and therefore even if there is no deed of access it will have been gained by prescriptive right, having been used by vehicular traffic for more than 20 years. I do not think there are any other common or access issues."

5. Representations

5.1 Garway Parish Council neither objected to nor supported the application but did make the following comments:

"At Garway Parish Council meeting on 16th June 2014 it was agreed that the Parish Council would make the following comments:- The Parish Council raised concerns regarding access to the property over common land and would like confirmation that the Secretary of State has been consulted over this issue. Several houses surrounding this property have dormer windows, the Parish Council commented that Dormer windows in this property would be more in keeping with the area. Eaves of the property to be dropped."

5.2 2 letters of objection were received from members of the public raising the following concerns:

- Design should be in keeping with surrounding dwellings through the provision of dormer windows, having a lower ridge line with fascias and finishes having minimal impact. It should blend into the existing palette of stone, timber and render.
- That the proposal would result in the loss of large garden space which should be retained in village locations
- That the proposal requires a crossing across the common and there is no declaration on the application form that the land owner has been notified.

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:-

<https://www.herefordshire.gov.uk/government-citizens-and-rights/customer-services-enquiries/contact-details?q=customer&type=suggestedpage>

6. Officer's Appraisal

The Principle

- 6.1 The application site is located within the main mass of development which makes up Garway. I consider the main mass of development to be that which flanks either side of the C1239 on an east-west axis before branching off in a north-easterly direction along an unadopted track. The application therefore falls to be firstly considered against UDP Policy H6 which sets parameters for development in small settlements such as Garway.
- 6.2 In the context of the UDP, residential development within small settlements is limited to infill where the gap along the frontage is limited to less than 30 metres, where the plot is less than 350 square metres and where the proposed dwelling would have a floorspace no greater than 100 square metres. The nature of this application site meets none of the aforementioned criteria being 1750 square metres in a gap of 66 metres between frontages. It is therefore contrary to local planning policy.
- 6.3 Having established this conflict with the UDP, it is necessary to determine whether there are any other material planning considerations which indicate that the proposal may be acceptable. The NPPF is a material planning consideration (paragraph 13 and 196) and was attributed full weight in March 2013 (paragraph 214).
- 6.4 The UDP remains the adopted local plan though the weight which can be attributed to each policy is determined by its level of conformity with the NPPF. Paragraph 47 of the NPPF requires local authorities to have a five year supply of land for housing at all times. The Council's published stock of housing land is less than the required five years, a position recently upheld at appeal. The weight which can be attributed to local policies that stipulate the geographical limit of residential development are therefore afforded significantly reduced weight (paragraph 49) and UDP Policy H6 cannot be relied upon in this instance. Instead the principle of residential development is determined by the sustainability of the site with regards its proximity to facilities and services and the sites physical relationship with the local pattern of development.
- 6.5 The Government's definition of Sustainable Development is considered to be the NPPF in its entirety though paragraph 17 lays out a concise set of 'core planning principles'. Amongst these principles are that decision taking should:
- 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; and

- actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus development in locations which are or can be made sustainable.

- 6.6 UDP Policy S1 requires, amongst other things, that development proposals should respect patterns of local distinctiveness and landscape character in both town and country. Policy DR1 similarly requires that development should promote or reinforce the distinctive character of the locality. Policy H13, supported by DR1, requires consideration of the design of residential development and its potential to impact on the locality in terms of neighbouring residential amenity, landscape character, the environment and highways safety. UDP policies H13, DR1 and S1 also require development to include energy conservation and renewable energy generation techniques. These policies are generally consistent with the advice on design and distinctiveness set out in the NPPF (chapter 7) and so continue to attract considerable weight.
- 6.7 As the proposal is for the provision of a dwelling within a residential garden development must be specifically considered in the context of paragraph 53 of the NPPF and whether or not the proposal constitutes ‘inappropriate garden grabbing’.

Sustainability

- 6.8 The application site lies within a reasonable distance of all facilities within Garway, namely the Pub (120 metres), Primary School (510 metres) and well utilised village hall (550 metres) and as such walking would be an option for some everyday activities. Although a bus stop is located within the village this service only provides two trips a day to and from Hereford and the more extensive facilities therein. Furthermore, the journey time exceeds an hour rendering it unlikely that one would make frequent use of this service.
- 6.9 The pavement through the village of Garway is intermittent and no street lighting is provided. That being said I do not consider that walking through Garway would place residents in any significant danger as the C1239 is not unduly busy with traffic and speeds are not excessive. The route is often used by occupants of existing dwellings throughout the village to access the well utilised local facilities. Furthermore, the road is not overly narrow with tarmacked and grassed verges providing an informal place of refuge if required where a pavement is absent.
- 6.10 The NPPF, paragraphs 29 & 55, acknowledges that in rural areas use of the private motor vehicle will likely be necessary for some journeys. It is inevitable that in this location this will be the case. However, I find there to be a reasonable level of facilities locally and opportunity to access them in a sustainable manner and as such consider the application site to be sustainably located as required by UDP Policies S1 and DR1 and the NPPF where paragraph 17 is of particular pertinence.

Local distinctiveness, design and landscape impact

- 6.11 The application site is a prominent location at the easterly gateway to the village. There are four dwellings further east along an unadopted driveway, though these are set well back from the main road running through the village behind dense vegetation. As such, this site would essentially become the ‘welcome’ to the village increasing the importance of securing a suitable form of development.
- 6.12 Garway is defined by its strong linear form of low density development on an east-west axis flanking either side of the C1239 which then spurs off an unadopted track before terminating after approximately 100 metres. The application site is located along the roadside and represents an opportunity to continue this settlement pattern. The site also sits at the junction between the unadopted track and C1239 so its development would not appear to extend built form into the open countryside in plan form. It would in fact reinforce the concave route of development at this end of the village away from the C1239. I therefore find the proposal to

respect the local settlement pattern as required by UDP Policies S1 and DR1. Furthermore, given the aforementioned and the existing residential use of the site I am content that the proposal would not give rise to further development extending away from Garway and into the open countryside.

6.13 In terms of the local vernacular, development within Garway was historically characterised by stone buildings of modest proportions and a traditional form. Dwellings are predominantly two-storey with gabled roofs but of a low height. More modern development has largely upheld this simple, semi-rural vernacular though render has become the building material of choice. The cluster of brick built houses at the centre of the village is an exception to this and represents a clear departure from the character and history of the village and in my opinion should not be held as exemplars for the design of future development.

6.14 The application proposes a Passivhaus the accepted definition of which is:

“A building, for which thermal comfort can be achieved solely by post-heating or post-cooling of the fresh air mass, which is required to achieve sufficient indoor air quality conditions – without the need for additional recirculation of air.”

Essentially meaning the heating requirement in a Passivhaus is reduced to the point whereby a traditional heating system is no longer considered necessary. The exceptional energy conservation credentials of such builds greatly contribute to meeting the NPPFs definition of sustainability, surpassing the qualitative requirements of its environmental dimension.

6.15 The fundamentals of such an approach to residential development make a number of requirements of buildings which can be restrictive to a scheme’s layout, siting and detailed design. This can limit the building’s ability to conform to the prevailing characteristics of the locality. For example it is necessary to simplify a building’s form to minimise potential thermal bridging, a junction between materials where heat may be lost, which may rule out certain building techniques such as the use of dormer windows. Paragraph 65 of the NPPF acknowledges this potential conflict stating that:

“Local planning authorities should not refuse planning permission for buildings or infrastructure which promote high levels of sustainability because of concerns about incompatibility with an existing townscape, if those concerns have been mitigated by good design.”

6.16 Notwithstanding this, the detailed design of the scheme does draw on the principal features of the local vernacular. The form of the building, with a gabled roof, moderate depth and width, modest height and uncomplicated design ensures that it broadly replicates the form of dwellings in Garway. A traditional gabled porch emphasises the functional centrality of the main entrance and the prominence of the principal elevation, another feature of dwellings in the village. The timber boarding cladding and slate roof upholds the simplicity of the building’s form and reflects local material usage.

6.17 The dwelling’s siting within the plot is slightly set back from that of Cae Duff. Views of the building would therefore be well filtered by existing vegetation along the site’s eastern boundary. A garage would however be forward of the dwelling on a similar building line to Cae Duff. The building would be single storey and of modest proportions sitting subserviently to the dwelling. It would also be clad in a local stone. As the first building seen when approaching the village from the east, this would help provide a representative and suitable ‘welcome’ to the village reinforcing the distinctiveness and history of Garway as required by the NPPF and UDP policies DR1 and H13.

6.18 The application site is a part of an existing residential garden. However, for the aforementioned reasons and that both the proposed dwelling and Cae Duff would have gardens which are both enjoyable and of a size commensurate local plot sizes I find the

proposed development not to represent inappropriate development of a garden as required by paragraph 53 of the NPPF.

- 6.19 On the basis of the above, the proposed dwelling would sit comfortably within its context relating to and respecting the distinctiveness and historical development of the locality. In attributing the necessary weight to the sustainability credentials of the build, I consider the design of the dwelling to be in accordance with UDP Policies DR1 and H13 and chapter 7 of the NPPF.
- 6.20 The provision of the proposed dwelling would require the removal of 6 trees: 2 Flowering Cherry Trees, 2 Unknown shrubs, 1 Eucalyptus and 1 Ash Tree. The trees to be removed are not integral to the character of the locality and their removal is not objected to on the basis that a further planting of equal or greater biodiversity value will be provided. 4 trees are to be planted within the rear garden along with a hedgerow defining the boundary between the proposed dwelling and Cae Duff. The location and amount of vegetation to be provided is considered acceptable and in accordance with UDP Policy LA6 though the species types and mix will require the Council's later approval.

Amenity and privacy

- 6.21 The proposed dwelling would be approximately 15 metres to the north-east of Cae Duff and 25 metres to the south-west of 'The Cottage'. A single paned, modest window would be provided on both side elevations. Given that the proposed dwelling is set back of Cae Duff and forward of The Cottage, there is no opportunity to gain direct sightlines in to either dwelling. This is compounded by the significant distances between dwellings. Dense vegetation and an existing outbuilding further preclude views of The Cottage from the proposed dwelling and vice versa. The proposed dwelling is a sufficient distance from both Cae Duff and The Cottage to ensure that it would not preclude ample daylight from reaching the living space of both dwellings. The amenity and privacy of both the proposed and neighbouring dwellings is therefore acceptable as required by UDP Policies DR1 and H13 and the NPPF.

Ecology

- 6.22 The Council's ecologist agrees with the content of the preliminary ecological appraisal submitted with this application. The development would appear to offer a low risk of impact to protected species and the recommendations for mitigation through reasonable avoidance measures for great crested newts. These measures can be implemented as the site is prepared and if members were to approve this application a compliance condition should be attached to ensure these works are undertaken. On this basis, the proposal is compliant with the ecological requirements of UDP Policies NC1, NC6 & NC7 and the NPPF.

Highways

- 6.23 The visibility across the frontage is acceptable if the proposed development can allow one to both enter and leave the site in forward gear. The proposed layout doesn't clearly show this though the proposed dwelling can be accommodated by minor changes to the layout. The existing layout is more difficult to ascertain without detailed plans, with drawings provided. A suitable access with parking and turning can be provided though the detail submitted does not meet this requirement. Conditions should be attached to any permission given to ensure that the parking arrangements for both the proposed and existing dwelling are acceptable in terms of vehicle numbers and residual space within which a vehicle can turn.

Other matters

- 6.24 The Parish Council and two objectors expressed concern for the necessity for one to traverse Garway Common to access the proposed dwelling. The County Land Agent has stated that he

has no concerns for the proposal with regard the potential Common issue. It is worth noting that the driveway is already in place as it currently serves Cae Duff. Only small alterations would be undertaken to this driveway.

- 6.25 Notwithstanding the above, the issue of whether or not the access would be across the common is a land ownership one and is not itself relevant to the planning process. An informative will, however, be attached to any permission given informing the applicants of their requirements to adhere to Section 194 of the Law of Property Act 1925 which covers Common Land. What I have considered in the above report is whether or not as a result of the works, there would be an ecological or landscape impact; these are planning matters. Given that the drive is in place, there would be no landscape or ecological impact in relation to the crossing of this land to access the proposed dwelling.
- 6.26 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 one year of the date of an outline permission being granted. This submission states a preference for a one year permission and as such the requirement of Section 106 contribution is waived.

Conclusion

- 6.27 There would be extremely limited environmental harm associated with this application in terms of landscape and biodiversity impacts. In applying the planning balance I find this to be outweighed by the social and economic benefits of the scheme attributed to its modest contribution to the countywide housing supply, the probable increased use of local facilities, the sustainability credentials of the build and the employment of local tradesmen during construction. The application is therefore recommended for approval.

RECOMMENDATION

That planning permission be granted subject to the following conditions:

- 1. A01 Time limit for commencement (full permission) (one year)**
- 2. B02 Development in accordance with approved plans and materials**
- 3. C01 Samples of external materials**
- 4. F14 Removal of permitted development rights**
- 5. The measures for species mitigation and habitat enhancement shall be carried out in accordance with the recommendations set out in Section 6.3 of the ecologist's report from Countryside Consultants dated April 2014. An appropriately qualified and experienced ecological clerk of works shall be appointed (or consultant engaged in that capacity) to oversee the ecological mitigation work.**

Reasons:

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 Herefordshire's Unitary Development Plan in relation to Nature Conservation and Biodiversity and to meet the requirements of the NPPF and the NERC Act 2006

- 6. **G10 Landscaping scheme**
- 7. **G11 Landscaping scheme - implementation**
- 8. **I16 Restriction of hours during construction**
- 9. **H06 Vehicular access construction**
- 10. **H11 Parking - estate development (more than one house)**

INFORMATIVES:

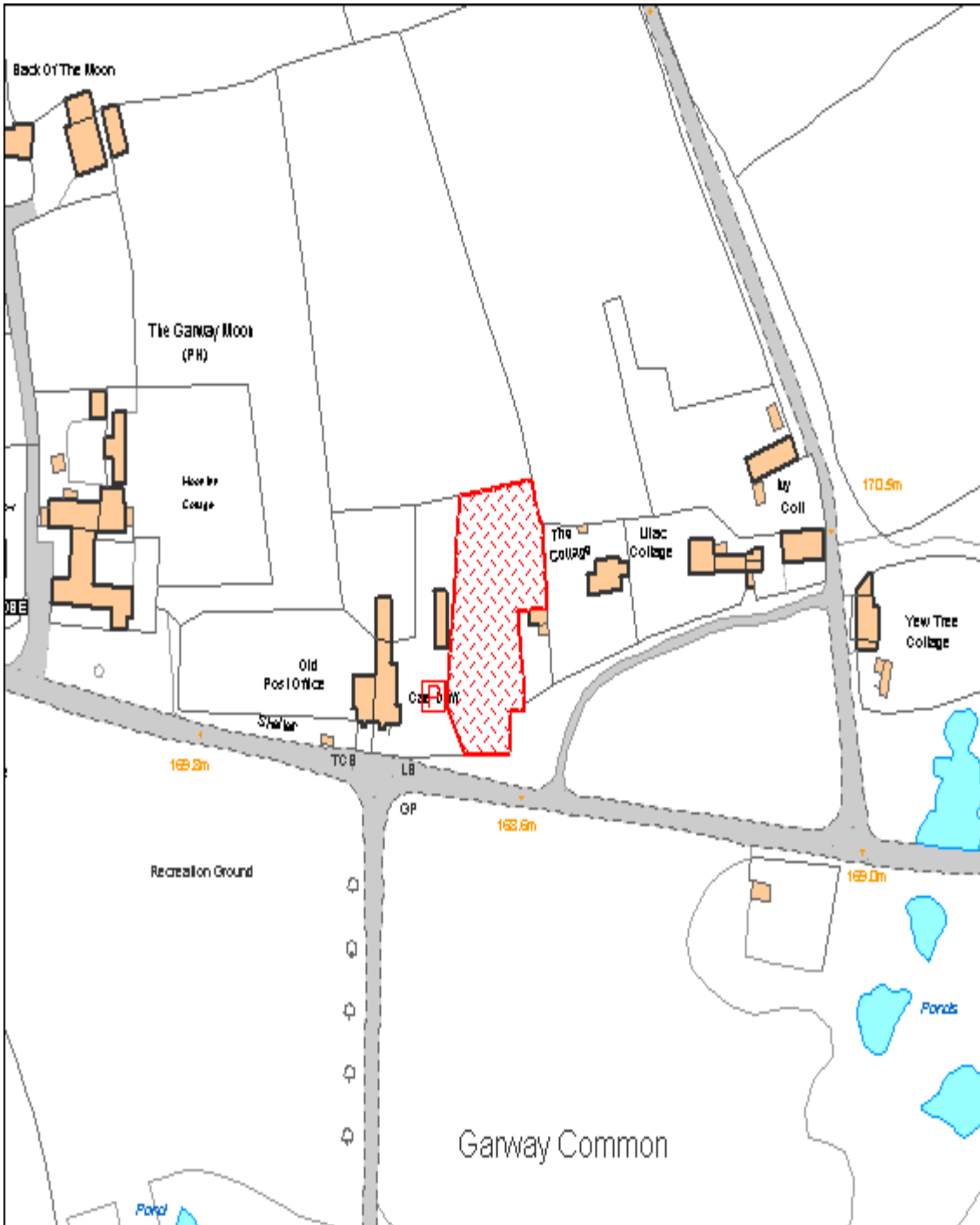
- 1. **The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.**
- 2. **HN20 Common land**

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: 141489/F

SITE ADDRESS : LAND ADJACENT TO CAE DUFF, GARWAY COMMON, HEREFORD, HR2 8RF

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Further information on the subject of this report is available from Mr Matt Tompkins on 01432 261795



MEETING:	PLANNING COMMITTEE
DATE:	6 AUGUST 2014
TITLE OF REPORT:	P140397/F - VARIATION ON CONDITION 15 OF NC09/1820/O. AT HOPE FAMILY CENTRE, TOP GARAGE, HEREFORD ROAD, BROMYARD, HR7 4QU For: Mrs Davis per Miss Rosemary Collie, Cherry Cottage, Knighton-on-Teme, Tenbury Wells, Worcestershire, WR15 8LZ
WEBSITE LINK:	https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=140397&search=140397

Date Received: 6 February 2014

Ward: Bromyard

Grid Ref: 364451,253846

Expiry Date: 3 April 2014

Local Members: Councillors JG Lester and A Seldon

1. Site Description and Proposal

- 1.1 The Hope Family Centre is located to the west of the A465 (Hereford to Bromyard road) just south of the settlement boundary of Bromyard. The 'Top Garage' and petrol station adjoins the site to the south, with the B4214 highway running alongside the western boundary. The residential property Touchwood borders the site to the north. There are two buildings on the site, both used by the H.O.P.E charity.
- 1.2 H.O.P.E stands for 'Holistic Opportunities for Play and Education' and was established in 1999 with the aim to support local parents on low incomes and those facing particular disadvantage. They currently provide childcare for 0-5 year olds, adult education and individual family support. The courses they run include literacy, numeracy, cooking, access to debt advice, access to health visitor and midwife. Within the second building approved under application DCNC0009/1820/CD building there is also small business units/workshops space for individuals to work from and a café.
- 1.3 The original building granted under application DCNC2005/0062/F is restricted to use as a 'family centre, crèche and play group facilities and associated offices'. Condition 12 attached to the decision notice prevents the building being used for any other use in Class D of the schedule to the Town and Country Planning (Use Classes) Order 1987. The second most recent building granted under application DCNC0009/1820/CD is restricted to uses ancillary to the use of the existing premises on site (e.g. HOPE Family Centre). Both buildings have permission to be open to the public from 7am to 6pm on Saturdays, Sundays and Bank holidays, and 7am to 10.30pm on any other day.

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

Proposal

1.4 This application proposes to vary condition 15 of planning permission DCNC0009/1820/CD to allow the workshop on the ground floor to be used for A1 uses. The end workshop has already been converted into a hair salon, with the other units currently being used for furniture restoration, dress making, office space and a multi sensory room. Each work space has its own access and according to the design and access statement amount to 25% of the overall centre.

1.5 Condition 15 of DCNC2009/1820/CD is as follows:

15. The areas depicted on the approved drawings for 'work space' shall only be used for purposes falling under the ambit of Class D1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.

Reason: The local planning authority wish to control the specific use of the land/premises, in the interest of local amenity and to comply with Policy DR2 of Herefordshire Unitary Development Plan.

2. Policies

2.1 National Planning Policy Framework

Paragraph 14 - The presumption in favour of sustainable development

Paragraph 17 - Core planning principles – Design quality and character of an area and different roles and character of different area. Promoting the vitality of our main urban areas.

Paragraphs 23-27 – Ensuring the vitality of town centres – applying a sequential test to planning applications for main town centres uses that are not in an existing centre and are not in accordance with an up-to-date plan – application for main town centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered.

Paragraph 196 - Determining applications – determination in accordance with the approved plan unless material conditions indicate otherwise.

2.2 Herefordshire Place Shaping 2010

Identifies Bromyard as having a vulnerable retail sector with above national average number of vacant shops.

2.3 Herefordshire Unitary Development Plan:

S1	-	Sustainable Development
S2	-	Development Requirements
S4	-	Employment
DR1	-	Design
DR2	-	Land Use and Activity
DR3	-	Movement
E7	-	Other employment proposals within and around Hereford and the market towns
E8	-	Design standards for employment sites
E11	-	Employment in the smaller settlements and open countryside
TCR1	-	Central shopping and commercial areas
TCR2	-	Vitality and viability
T11	-	Parking Provision

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

2.4 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
SS5	-	Employment provision
E1	-	Employment provision
ID1	-	Infrastructure Delivery
MT1	-	Traffic Management, Highway Safety and Promoting Active Travel
RA6	-	Rural economy
SD1	-	Sustainable Design and Energy Efficiency
SD2	-	Renewable and Low Carbon Energy
E5	-	Town Centres
MT1	-	Traffic management, highway safety and promoting active travel

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:-

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

3. Planning History

- 3.1 DCNC2003/2440/F – Playground family centre crèche facility, associated offices and Wc.s Approved 2/12/2003.
- 3.2 DCNC2004/1515/F – Variation to condition 3 of DCNC2003/2440/F re access. Approved 12/7/2004.
- 3.3 DCNC2005/0062/F – New build family centre. Approved 20/4/2005.
- 3.4 DCNC2005/1790/F – Variation to condition 14 of DCNC2005/0062/F to extend opening hours of centre from 6pm to 9pm. Refused 14/9/2005.
- 3.5 DCNC2006/0882/F – Variation to condition 14 of DCNC2005/0062/F to extend opening hours of centre from 6pm to 9pm. Approved 17/7/2006.
- 3.6 DCNC0009/1820/CD – Proposed construction of phase 2 of the H.O.P.E family centre, development to include day care facilities, office space, workshop space, multi-use community space and café, with associated parking facilities.
- 3.7 N102496/AM - Non material amendment to DCNC0009/1820/CD. Approved 18/2/2011.
- 3.8 N111678/F – Variation to condition 14 of DCNC0009/1820/CD – no time restrictions on use of building so it can be used for charity functions and occasional training events. Withdrawal.
- 3.9 N123414/CD – Variation of Condition 15 of NC09/1820/O- Withdrawal
- 3.10 N123428/CD – Variation of condition 14 – hours of opening – Approved 15/5/2013
- 3.11 N132566/CD - Variation of Condition 2 of DCN009/1820/CD to allow use of multi-use room for purposes other than ancillary to the Hope Centre, up to 4 Council staff as part of the council's better ways of working policy – Approved 11/12/2013

4. Consultation Summary

4.1 None

Internal Council Advice

4.2 Traffic Manager recommends that the proposal is unacceptable for the following reasons :

The proposal is likely to generate more traffic. There is already pressure on the existing parking provision, indicated by on-street parking at times along the narrow verge outside the Centre. This is not acceptable.

I need information on how extra parking is to be provide, along with Travel Plan measures to reduce use if private cars. The Travel Plan measures must be monitored and made effective by the Management team.

5. Representations

5.1 Bromyard and Winslow Town Council supports the application.

5.2 A representation against the proposal has been received from Malcolm Scott Planning Consultant on behalf of the occupiers of Touchwood, which adjoins the site to the north. The objections to this application are summarised below:

1. Bromyard Town has a higher than average shop vacancy rate as identified in the Herefordshire's Place Shaping 2010; it has a vulnerable retail sector as cited in Core Strategy
2. Application will not help either the vitality and viability of Bromyard's Town Centre;
3. No sequential test has been provided or Impact Assessment;
4. Thin edge of the wedge; out of town retailing
5. Development of main town centre uses should be directed to town centre in this rural location.
6. Policy BY1 cited by applicant , but incompletely i.e need *also* to protect and enhance vitality and viability of town centre and viability of town centre
7. Proposed development will impact upon the amenity of the adjoining property;
8. No evidence of the need for A1 uses on the site;
9. Proposal is inappropriate given the impact the individual proposal will have, and the precedent that it will have;
10. The proposal will significantly alter the intended use of the site;
11. Parking on site inadequate, parking on highway danger to highway users and pedestrians. 34 spaces , of which 4 for disabled users and 4 allocated for BWOW use approved recently (132566/CD) Therefore under-provision will be exacerbated.
12. Changes to General Development Order only relates to temporary uses and for prior approval applications , this is a retrospective one.

5.3 Seven letters of support have been received raising the following main points :

- Inspirational training facility. Helps less well-to-do get up ladder. Training in skills and enterprise.
- Not experienced difficulty parking ; can also walk or cycle to Centre.
- Disabled access for hairdressing salon , given level access off car-park not possible in town-centre.

5.4 The applicant makes the following main points:

- Sufficient material considerations to grant planning approval
- 3 workshops : hairdressing salon, furniture restoration and food bank (charity)
- NPPF (paragraph. 28) support
- Bromyard Town plan identifies need for small premises
- Enterprising County: Economic Development Strategy 2011-16, increase economic wealth of County through business, through skilled population, developing infrastructure and enabling businesses to start-up and develop
- Core Strategy - Policy BY1 reference to Bromyard ;encourages small scale employment sites within and around the town
- HUDP (section 6.22) encourages suitable rural employment opportunities within and adjacent to local service centres
- Always intention to develop small businesses, only due to omissions made in acceptance of original permissions granted
- Funding for building from Advantage West Midlands intended for flexible work units, training, child care and multiple health and social services
- AWM stated no small, flexible ground floor workspaces for new enterprises to background of area with high proportion of self-employed as compared to national statistics i.e 16.9% to 9% respectively
- Changes to GDO recently i.e permissible change from Class D to A1, A2, A3 and B1 for up to 2 years
- NPPF paragraph 17 needs to be addressed i.e community wellbeing (health, social and cultural)
Sequential need not be applied for small scale rural offices rural development only impact assessment needed if exceeds 2,500sq m
- NPPF paragraphs 199 and 187 need to be addressed i.e use of Local Development Orders and approving applications for sustainable development that improve economic , social and environmental conditions of area
- HUDP suggests retail uses could be acceptable "where they are ancillary to a principal employment related use (6.4.26)
- Core Strategy - Bromyard Section highlights need for flexibility to enable shops, services or public house to diversify into ancillary retail uses enabling them to serve local community
- Would be permitted under current permitted development rules
- NPPF paragraph 14 is about positive growth : paragraph 7 requires the planning system to take a social role by providing accessible service reflecting needs of community in support of it's health, social and cultural well -being and paragraph 70 states authorities should guard against loss of valued facilities and services
- application complies with Policy S1 of HUDP
- Core Strategy Policy SS1 - Presumption in favour of sustainable development met Herefordshire Community Strategy - proposals that protect social and community infrastructure will be supported
- Bromyard Town Plan found high level of dissatisfaction in relation to work training, clubs and other facilities
- Funding cut - need to seek greater provision from social enterprise and the voluntary sector
- Not a supermarket or large premises
- Recent survey identified no suitable units to buy or let in town centre, only small premises to let outside town centre were offices in Rowberry Street and large office suite on Station Industrial Estate
- 7 hairdressers in town centre, none closed due to presence of one at Hope Centre. Therefore, no viability issue
- Bromyard Town Plan identified issue of parking in town centre. Centre hopes to relieve pressure. 10 minutes walk i.e use Centre and then walk into town.
- Appointment only hairdresser. Workspaces already used by people benefiting from services provided at HC

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

- HC encourages young people, young mothers to train and receive support ; have trained hairdressers, furniture restorers and others in sewing workshop
- Workshop used by hairdresser owned and run by young local lady who walks to HC, could not find suitable premises in town centre. Many of clients use other facilities at HC i.e childcare, multi-sensory room , group sessions and cafe.
- Excellent level access
- Forms only 9.5% of HC
- See updated Travel Plan

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

6. Officer's Appraisal

- 6.1 Notwithstanding, the original reasons for the condition which related to local amenity, the main issue is the introduction of the A1 use on the site and the effect that this will have on the vitality and viability of Bromyard Town Centre. The remaining issues are car-parking and the impact on the amenity.
- 6.2 According to the design and access statement the proposed A1 uses would be in 25% of the existing phase 2 building on the site. The UDP policies S5, TCR1 and TCR2 have the objective of promoting the vitality and viability of town centres (including Bromyard). Policy TCR2 states that to maintain and enhance the vitality and viability of town centres proposals for new shopping and commercial uses within part A of the Use Class Order will be directed to the central shopping and commercial areas.
- 6.3 The retail policies contained within the UDP have the objective of maintaining vibrant Town Centres by directing all retail uses to them. The application site is clearly an out of centre site being some 1.2km distant from the Town Centre. Whilst the proposal may be small in floor space terms in terms of expenditure and "trade draw" there is no evidence that its impact would be insignificant. It is evident though that the retail use is limited to hairdressing alone, which is one of the skills taught at the Centre. However, on the basis of the case submitted there are still 7 other hairdressers in the town centre in operation at the same time as the hairdressing salon based at the Centre. There are a wide range of possible retail uses that fall within the ambit of Class A1. It is considered that restricting the Class A1 use to a hairdressers use only would limit any perceived impact on the vitality and viability of the town centre. The hairdressers use is also limited by being appointment only and although possibly a sole destination for clients, there are other facilities at the centre that could be used such as the café. The use of one of the workshops for furniture restoration and the third one for use as a food bank for charitable purposes accords with policies in the HUDP and Chapter 2 of the National Planning Policy Framework.
- 6.4 It is noted that in an appeal relating to an application for a catering unit in the Homebase car park in Ledbury, the Planning Inspector agreed with the Council that whilst individually the effect of an A1 development on expenditure in the town centre could be relatively small is of little relevance, as the same argument could be made too often and, if successful, would cumulatively undermine the vitality and viability of the town centre. However, for reasons stated above and subject to a condition restricting the A1 use it is not considered that on balance the appeal case cited is directly comparable to this proposal.

- 6.5 The next relates to parking provision at the Centre. This is a retrospective application for uses that have been carried out for a period of time together with the major traffic generating uses i.e the nursery which is known to result in vehicles parking along the verge of the class II road as well parking on the garage forecourt. Whilst it is evident that the hairdressing salon will generate customers visiting the Centre in private vehicles, this can be arranged at times outside peak periods in relation to the nursery/crèche receiving clients. This is also in relation to one vehicle possibly given the owner of the salon walks to the Centre. Therefore, whilst the retail use has an impact in terms of traffic generation, it is not an adverse one in the context of existing uses on the site that results in the loss of amenity to residents in the vicinity of the site.
- 6.6 There have been changes made to the General Development Order that facilitates temporary changes of use from use Class D, which is the use class for the Centre to uses A1, A2 and B1. However, this is a retrospective planning application for what will be a permanent change of use. Reference is also made to the Core Strategy, however this is considered to have limited import at this time.
- 6.7 This proposal is supported on the basis that a restriction on the type of retail use and as currently carried out at the Centre will not on balance undermine the requirements of Policies TCR1 and TCR2 of the Herefordshire Unitary Development Plan together with the provisions of Chapter 2 of the NPPF *Ensuring the vitality of town centres*. It is understood why these economic imperatives are cited given the need for the Hope Centre to survive in an uncertain financial world. Nevertheless, for reasons set out above this application is supported subject to a condition specifically controlling the retail use on the site.

RECOMMENDATION

That planning permission be granted subject to the following conditions:

- 1. **The premises shall be used as a hairdressing salon and for no other purpose (including any other purpose in Class A1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.**

Reason: The local planning authority wish to control the specific use of the land /premises, in the interest of local amenity and to comply with Policies TCR1, TCR2 and DR2 of Herefordshire Unitary Development Plan and the provisions of 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. 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.



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APPLICATION NO: 140397/F

SITE ADDRESS : HOPE FAMILY CENTRE, TOP GARAGE, HEREFORD ROAD, BROMYARD, HEREFORDSHIRE, HR7 4QU

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