

# AGENDA

## Planning Committee

Date: **Wednesday 27 August 2014**

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Time: **10.00 am**

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

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

For any further information please contact:

**Tim Brown, Democratic Services Officer**

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

# Agenda for the Meeting of the Planning Committee

## Membership

**Chairman**

**Councillor PGH Cutter**

**Vice-Chairman**

**Councillor PA Andrews**

**Councillor AJM Blackshaw**

**Councillor AN Bridges**

**Councillor EMK Chave**

**Councillor BA Durkin**

**Councillor PJ Edwards**

**Councillor DW Greenow**

**Councillor KS Guthrie**

**Councillor J Hardwick**

**Councillor JW Hope MBE**

**Councillor MAF Hubbard**

**Councillor JG Lester**

**Councillor RI Matthews**

**Councillor RL Mayo**

**Councillor PJ McCaull**

**Councillor FM Norman**

**Councillor J Norris**

**Councillor TL Widdows**

**Councillor DB Wilcox**

## AGENDA

### VISITING BROCKINGTON - POLICE REQUEST - CAR PARKING

There is a pay and display car park at Brockington.

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

Please avoid parking on Hafod Road itself.

#### 1. APOLOGIES FOR ABSENCE

To receive apologies for absence.

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

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

#### 3. DECLARATIONS OF INTEREST

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

#### 4. MINUTES

To approve and sign the Minutes of the meeting held on 6 August 2014.

#### 5. CHAIRMAN'S ANNOUNCEMENTS

To receive any announcements from the Chairman.

#### 6. APPEALS

To be noted.

#### 7. P140953/F HOMME FARM, HOM GREEN, ROSS-ON-WYE, HR9 7TF

Variation of Conditions 1(A), 1(C), 1(D) and 2 of DCSE2008/0996/F.

#### 8. P140963/O LAND AT 144 AYLESTONE HILL, AND LAND TO THE EAST OF AYLESTONE HILL, HEREFORD, HR1 1JJ

Site for the development of up to 135 homes (including 46 affordable homes), public open space, new access (including demolition of 144 Aylestone Hill). Structural landscaping, sustainable drainage including balancing ponds and infrastructure and associated works.

#### 9. P140164/O LAND TO THE REAR OF PARADISE MEADOWS, MARDEN, HEREFORDSHIRE, HR1 3EN

Site for the erection of 16 nos. dwellings.

#### 10. P140926/O LAND TO THE SOUTH OF A438, PARCEL NO. 0008 AND PART PARCEL NO. 2308, BARTESTREE, HEREFORDSHIRE

Outline proposal for the erection of 60 dwellings (including 21 affordable houses) and a change of use of land to form community open space.

### Pages

7 - 28

29 - 32

33 - 52

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11. **P140164/F TRUFFLES, 46 HIGH STREET, ROSS-ON-WYE, HEREFORDSHIRE, HR9 5HG** 147 - 150

Proposed change of use from A1 use to mixed A1 & A3 use.

12. **DATE OF NEXT MEETING**

Date of next site inspection – 16 September 2014

Date of next meeting – 17 September 2014

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

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

### **Public Transport Links**

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

## **HEREFORDSHIRE COUNCIL**

**BROCKINGTON, 35 HAFOD ROAD, HEREFORD.**

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

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

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

HEREFORDSHIRE COUNCIL

**MINUTES of the meeting of Planning Committee held at The Council Chamber, Brockington, 35 Hafod Road, Hereford on Wednesday 6 August 2014 at 10.00 am**

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

**Councillors:** AJM Blackshaw, AN Bridges, EMK Chave, BA Durkin, PJ Edwards, DW Greenow, KS Guthrie, J Hardwick, TM James, JG Lester, RI Matthews, RL Mayo, FM Norman, J Norris, AJW Powers, J Stone, TL Widdows and DB Wilcox

**In attendance:** Councillor RJ Phillips

**32. APOLOGIES FOR ABSENCE**

Apologies were received from Councillors PA Andrews, JW Hope MBE, MAF Hubbard and GR Swinford,

**33. NAMED SUBSTITUTES**

In accordance with paragraph 4.1.23 of the Council's Constitution, Councillor TM James attended the meeting as a substitute Member for Councillor PA Andrews, Councillor AJW Powers substituted for Councillor Hubbard, and Councillor J Stone substituted for Councillor JW Hope.

**34. DECLARATIONS OF INTEREST**

**Agenda item 7 Land South of Penrhos Farm, Lyonshall, Kington**

Councillor PGH Cutter declared a non-pecuniary interest as director of a company which provided solar panels. He confirmed that he had no association with the application.

**Agenda 9: P141314/0 Land at Ryelands View, Kinsham, Presteigne, LDH 2HP**

Councillor J Stone declared a non-pecuniary interest given his role as Vice Chairman of Council.

**35. MINUTES**

**RESOLVED:** That the Minutes of the meeting held on 16 July 2014 be approved as a correct record and signed by the Chairman subject to amending minute no 23 to state that Mr K Bishop Development Manager, declared a non-pecuniary interest, because his wife was *Family Ministry Manager at St Paul's Church Tupsley*.

**36. CHAIRMAN'S ANNOUNCEMENTS**

There were none.

**37. APPEALS**

The Planning Committee noted the report.

**38. 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.)*

The Principal Planning Officer gave a presentation on the application. This included the design and layout of the poultry units together with associated infrastructure, including the storage building which would incorporate the biomass boiler noting its position and size. Surrounding residential properties were identified including listed buildings. 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 comments from the Environment Agency included in the update that the odour assessment provided in the planning application (including the Environmental Statement) went beyond minimum guidance. He also drew attention to noise issues as reported in the response from the EA and the recommendation as set out in the update to include an additional condition in respect of the slab level. He commented that the Environment Agency had already issued a site permit, which covered issues such as odour, noise, dust and residential amenity, and that the permit was administered and monitored by the Agency.

It was noted that following a Judicial Review a decision to grant planning permission for this development at Penrhos Farm, taken under delegated powers, had been quashed (by Consent Order) in the High Court. The matter had therefore been brought before the Committee for determination.

In accordance with the criteria for public speaking, Mr C Smith, of Lyonshall Parish Council spoke in support of the Scheme. Mrs H Hamilton, an agent speaking on behalf of an objector, spoke in objection. Mr R Williams, the applicant, spoke in support.

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

He commented on a number of issues including:

- The topography of the site and the impact on neighbouring properties were important considerations.
- It was difficult to determine such applications. He noted that 79 letters had been received in objection to the application and 78 had been received in support.
- A number of factors had to be balanced: the contribution the development would make to the local economy; whilst people might not be comfortable with the method of farming it did provide an affordable supply of meat; and the impact on the amenity value of the area.
- The site was in general discrete. Penrhos Court, a listed building, was some distance away. The site would, however, be in view of Penrhos House and he had sympathy with the objection of the resident. He suggested that, if the Committee was minded to approve the application, particular care was taken to ensure that proposed condition 11 set out in the recommendation in the agenda papers, relating to screening and landscaping, provided for enhanced landscaping to the north and north west of the site.
- He also requested that the proposed condition 6, requiring a Manure and Site Management Plan, should provide that no manure should be spread on the field closest to Penrhos House.



- If the Committee was minded to refuse the application it would need to identify reasons. All the issues raised in objection appeared to have been addressed.

The debate opened and the following principal points were made:

- The farming industry was facing difficulties and production of chicken meat was one of the few growth areas. The Parish Council had highlighted the economic benefits of the development and supported the application.
- Modern poultry units were of much improved design with better emission controls and the adverse impact of odour would be limited to the clean out and disposal periods which were of about two days duration.
- The site was already screened to a degree and the development would not have an adverse impact on neighbouring properties.
- The positive contribution of the development outweighed any negative impacts. The application represented sustainable farming.
- Regret was expressed about intensive farming methods, although it was acknowledged that these were employed in response to the market. Concern was expressed about the cumulative impact of such intensive poultry unit developments in the County and the potentially detrimental effect on tourism, a key component of the County's economy. Clarification was sought on the Council's planning policy on such developments, noting that with an increasing number of neighbourhood plans likely to come forward an overarching policy would be important.
- The Principal Planning Officer commented that policy E16 in the Unitary Development Plan related to intensive livestock units. The Development Manager confirmed that this was a saved policy to which some weight could be attached.
- Concern was expressed about the impact on the residential properties within 400m of the site and clarification on policy E16 was requested. The Principal Planning Officer commented that if a proposed development was over 400m from a residential property the applicant could subject to certain criteria give prior notification and did not have to submit an application for planning permission for certain agricultural buildings. He referred to Policy E16 which stated: *"Proposals for residential or other protected buildings within 400m of established intensive livestock units will be subject to special consideration. Such proposals, which would as a consequence be subject to significant adverse environmental impact will not be permitted."* The policy had the effect that if an intensive unit were proposed within 400m of a dwelling this too should be subject to special consideration. The Development Manager noted the importance of considering whether the development had a significant adverse environmental impact. That consideration further needed to be weighed against the presumption in favour of sustainable development in the National Planning Policy Framework.
- Concern was expressed about the scale of the roofscape.
- The land did rise and it was questioned where the feed hoppers would be located. The Principal Planning Officer replied that there would be 10 hoppers located at the bottom end of the site and identified their position on the plans and displayed the photographs of the site and the surroundings.. A Member expressed concern about this location.
- The access to the site appeared to be directly opposite Penrhos House. The Principal Planning Officer confirmed that the access road entrance was opposite the entrance driveway to Penrhos House. However, the entrance was some distance from the dwelling itself as the plans showed.
- It was noted that in the update the Environment Agency had suggested that delivery lorries should be fitted with silencers. It was suggested that heavy vehicles leaving

the site would generate noise and it was questioned how this could be policed. The Principal Planning Officer commented that the Environment Agency's Environmental Permit included some noise management provisions. Noise as a result of construction on site could be addressed if considered necessary by the attachment of a suitably worded condition to any approval notice. It was also noted that the site was alongside the A44 and so certain restrictions were not considered reasonable or necessary.

- An observation was made that, whilst Lyonshall Parish Council supported the application, Kington Town Council had objected to it. It was stated that the application site was on the edge of Lyonshall Parish and had a greater impact on Kington and its residents. The town relied on tourism and the site would, for example, be visible from the Offa's Dyke path.
- Concern was expressed about the potential effect on water courses and the absence in the County of a phosphate management plan.
- It was noted that the Environment Agency had issued a permit for the site.
- There were no planning policy grounds on which to recommend refusal. There were no significant adverse impacts and there were material considerations in support of the application.
- A number of comments were made about conditions to be attached to a grant of planning permission including a proposal that there should be a condition to regulate working hours during construction; and that the conditions suggested by the local ward member relating to screening should be supported.
- It was questioned whether a condition on hours of working on site should be imposed. The Principal Planning Officer commented that given the nature of the business, location of surrounding dwellings, and animal welfare and husbandry issues an hours of working condition on balance was not considered necessary.
- It was questioned whether the proposed colour of the roof, slate blue, was appropriate or whether another colour such as dark green would make the site less visible. The Principal Planning Officer commented that the Landscape Officer had requested slate blue. The applicant had requested dark green. It was noted that there was scope to address this in the relevant condition as set out in the recommendation.
- In addressing the Committee the applicant had referred to the use of solar panels on the building. The Development Manager clarified that no reference had been made to these in the application and the provision of panels was therefore not a relevant matter for the Committee. If the application were to be approved and the development completed solar panels could be installed as permitted development. A condition could be attached to remove this right, to ensure that the approved colour of the roof was not affected by the installation of panels.
- A Member commented that whilst the site was described in the report as relatively flat, in his opinion on the site visit it had appeared relatively sloping. Clarification was sought on the proposed additional condition relating to slab levels. The Principal Planning Officer replied that the condition would require a datum point on which to set the levels for the development and ensure that the development was sited at an appropriate level within the landscape.

The local ward member was given the opportunity to close the debate. He requested that consideration be given to attaching conditions on landscaping and manure spreading, as he had mentioned earlier, together with conditions on working hours during construction and slab level.

It was noted that the recommendation printed in the agenda papers authorised officers to grant planning permission subject to the conditions set out in the report and any other further conditions considered necessary. There was therefore authority to incorporate the additional conditions that had been highlighted during the debate, as summarised by the local ward member, and also consider the colour of external materials and the removal of permitted development rights in relation to solar panels

**RESOLVED:** That for the reasons set out in the report and expressed during the debate officers named in the Scheme of Delegation to Officers be authorised to grant full planning permission, subject to the conditions below and any other further conditions considered necessary, in particular relating to landscaping and manure spreading, hours of work during construction, slab levels, the colour of external materials, and removal of permitted development rights for solar panels.

- 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 broiler units elevations plan – drawing number IP/RW/03, proposed broiler 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.

(The meeting adjourned between 11.10 am and 11.15 am.)

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

*(Proposed erection of 5 terraced houses and formation of parking.)*

The Principal Planning Officer gave a presentation on the application. She added that following discussion with the local ward member and the applicant's agent it was proposed to add conditions relating to the construction of a pedestrian railing at the end of the path by the roundabout where the A4103 joined the A480.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor RI Mathews, the local ward member, spoke indicating support of the application.

He commented that the application site was identified for residential development in the draft Neighbourhood Plan. He requested that the Committee consider attaching the following conditions: a requirement that there should be two additional parking spaces, to provide two parking places per dwelling; a requirement that materials used in constructing the dwellings should be consistent with those used in the existing dwellings to preserve the amenity of the area; and that a pedestrian railing should be installed at the end of the path by the roundabout where the A4103 joined the A480 to help to protect the safety pupils travelling to school.

There was consensus in support of the development with the proposed additional conditions, which it was proposed should be finalised in consultation with the local ward member.

**RESOLVED:** That officers named in the Scheme of Delegation to officers be authorised to grant planning permission subject to the following conditions and any further conditions considered necessary after consultation with the Chairman and local ward member, in particular conditions on additional parking spaces, materials used in constructing the dwellings and the provision of a pedestrian railing:

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**

#### **40. P141314/O LAND AT RYELANDS VIEW, KINSHAM, PRESTEIGNE, LDH 2HP**

*(Proposed two bedroom bungalow.)*

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 following principal points were made in debate:

- Several Members considered that the application was for an “infill” building, which would be an improvement on the current structure it would replace, had no adverse impact and represented sustainable development which meant that there should be a presumption in favour of granting permission in accordance with the National Planning Policy Framework (NPPF). The development appeared to have a limited negative effect. It was questioned why officers had recommended refusal when two subsequent applications on the agenda in Garway, which, on the face of it appeared to be similar “infills”, were recommended for approval. Kinsham was slightly closer to amenities than Garway. Under the draft Core Strategy there would have been a different recommendation.
- The alternative view expressed was that, as set out in the report, the development was in open countryside and contrary to planning policy.

The Development Manager commented that the relevant policies the Committee should consider were the saved policies in the Unitary Development Plan (UDP). Policy H6 – housing in smaller settlements identified Garway as a settlement where infill development could be considered. Kinsham was not identified as such a settlement but as a group of dwellings in the open countryside to which a different policy applied. If the draft Core Strategy were to be approved it was possible that infill development in Kinsham might be considered differently. However, at the moment no weight could be attached to the draft core strategy. Officers therefore had to give weight to the saved policies in the UDP and to the NPPF and had accordingly recommended refusal of the application.

The Legal Officer also stated that no weight could be given to the draft Core Strategy at this stage. Material considerations included whether the development was sustainable in accordance with the NPPF. The planning officers had concluded that on balance the development was not sustainable and had not therefore engaged the paragraph 14 balancing exercise.

**RESOLVED: That officers named in the Scheme of Delegation to officers be authorised to grant planning permission subject to conditions considered necessary on the grounds that the development was sustainable in accordance with 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. 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.**

#### **41. P141230/F COUNTIES VIEW, MUCH BIRCH, HEREFORD, HR2 8HL**

*(Proposed erection of a detached dwelling.)*

The Senior Planning Officer gave a presentation on the application.

In accordance with the criteria for public speaking, Mr N Holman and Mr W Padden, residents, spoke in objection.



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

He noted that the Parish Council's reasons for objection to the Scheme had been addressed in discussion with the applicant. He highlighted the following points raised by the owner of a neighbouring property: the Transportation Manager had stated that a whole hedgerow needed to be removed to provide the required visibility splay, the neighbour stated that this was in his ownership and he would not agree to its removal; the calculation of the impact the development would have on the neighbour's level of daylight was questioned; and the development would adversely affect a neighbour's soakaway requiring it to be relocated.

The Senior Planning Officer commented that he had no knowledge of debate over the ownership of the hedge, however, relevant ownership certificates had been submitted on application. The planning consideration was that a visibility splay could be achieved. The location of the soakaway was not a planning consideration but a matter to be dealt with by building regulations.

It was proposed that the details should be finalised in discussion with the Chairman and local ward member.

**RESOLVED:** That 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, after consultation with the Chairman and local ward member, 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**

#### **INFORMATIVE**

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

**42. P141087/F LAND AT GARDD Y FFIN, GARWAY, HEREFORDSHIRE, HR2 8RE**

*(Proposed construction of a detached 4 bed dwelling and garage block containing artist studio.)*

The Senior Planning Officer gave a presentation on the application.

In accordance with the criteria for public speaking, Mrs A Wildey the applicant spoke in support of the Scheme.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor J Norris, the local ward member, spoke and indicated his support of the application.

**RESOLVED: 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**
- 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**

43. **P141489/F LAND ADJACENT TO CAE DUFF, GARWAY COMMON, HEREFORD, HR2 8RF**

*(Proposed house with garage/workshop.)*

The Senior Planning Officer gave a presentation on the application.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor J Norris the local ward member, spoke and indicated his support for the application.

A question was asked about consistency in assessing the sustainability of developments. The Development Manager commented that the development in Garway was development within a settlement, and was consistent with the Unitary Development Plan (UDP). There were currently a number of locations defined as hamlets rather than settlements where development was accordingly not consistent with the UDP. It was proposed in the draft Core Strategy that a number of hamlets would be reclassified as settlements where development could be considered.

**RESOLVED:** 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**

**44. P140397/F HOPE FAMILY CENTRE, TOP GARAGE, HEREFORD ROAD, BROMYARD, HR7 4QU**

*(Variation of Condition 15 on NC09/1820/O to permit A1 use.)*

The Principal Planning Officer gave a presentation on the application identifying that the proposal related to one unit being used as a salon for hairdressing (A1 use) and two workshops (B1).

In accordance with the criteria for public speaking, Miss R Collie, the Applicant's agent spoke in support of the application.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor JG Lester one of the local ward members, spoke on the application.

He complimented the Hope Family Centre on its work and commented that it had always been intended that the units in question would be developed as starter units. The application would benefit local people and provide income to support the Centre. He did not consider the proposal would adversely affect the town centre.

It was requested that an Informative be added to ensure there was effective management and control of the traffic using the centre.

The Development Manager noted the view that the development would not affect the viability of the town centre (A1) use. He emphasised that it was proposed that the use of this unit was restricted to the provision of a hairdressing salon. Without that restriction there was a greater potential for an impact on the town centre.

**RESOLVED: 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 and B1 (two units) 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.**

**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. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.**
- 2 The Applicant's attention is drawn to the need to ensure effective management of the car parking area in the interest of highway safety and residential amenity.**

**45. DATE OF NEXT MEETING**

The Planning Committee noted the date of the next meeting.

**Appendix 1 - Schedule of Committee Updates**

The meeting ended at 12.40 pm

**CHAIRMAN**



# **PLANNING COMMITTEE**

**Date: 6 August 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

**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**

**For: Mr Williams per Mr Ian Pick, Llewellyn House, Middle Street, Kilham, Driffield, YO25 4RL**

### ADDITIONAL REPRESENTATIONS

**The Environmental Health Manager** has responded in relationship to independent reports received on behalf of an objector on noise and odour issues commenting:

*'I have considered the The Airshed documents and would comment that although they identify possible weaknesses in the assessments provided by the applicant they do not identify mistakes. The assessments provide by the applicant have also been considered by the EA who are the enforcing authority for the regulation of polluting emissions from the proposed poultry houses and they appear to be satisfied. The poultry unit will require a permit from the Agency to operate which will impose conditions and which will negate the need for planning conditions that duplicate these requirements.'*

**The Environment Agency** has responded in respect of the information received from Air Shed indicating as part of our response to the planning application we requested an odour assessment be submitted to address those nearby sensitive receptors 'within 400m' of the proposed development.

To inform your decision making, and help ensure a robust EIA, the applicant provided information beyond the 98th percentile odour modelling (minimum required under the H4 permitting guidance). The submitted odour report looked at the potential impact for the crop cycle odour at 99.5 and 99.8th percentile, in line with our advice given the proximity to nearby dwellings.

The conclusions of the odour report show that the crop cycle does not appear to present a problem and is unlikely to cause annoyance. The planning application does provide some control measures to help reduce the likelihood of annoyance.

The Environmental Statement confirms that the proposed poultry unit will 'not produce any unacceptable Environmental Impacts'.

The Environmental Permit (EP) will control the operation of the site (installation area) in relation to day to day general management, including relevant land, air and water impacts; maintenance and pollution incidents.

The EP for Penrhos Farm was issued on the 5 June 2014, reference VP3236NH.

This includes a permit condition in section '3.3 Odour' which states that "3.3.1 Emissions from the activities shall be free from odour at levels likely to cause pollution outside the site, as perceived by an authorised officer of the Environment Agency, unless the operator has



used appropriate measures, including, but not limited to, those specified in any approved odour management plan, to prevent or where that is not practicable to minimise the odour". There is a similar condition for noise in section 3.4 which states that "3.4.1 Emissions from the activities shall be free from noise and vibration at levels likely to cause pollution outside the site, as perceived by an authorised officer of the Environment Agency, unless the operator has used appropriate measures, including, but not limited to, those specified in any approved noise and vibration management plan to prevent or where that is not practicable to minimise the noise and vibration".

Should the site operator fail to meet the conditions of a permit we will take action in-line with our published Enforcement and Sanctions guidance.

Our EP decision document confirms that: "The OMP has been assessed using Environment Agency Guidance H4 Odour Management – How to Comply with your Environmental Permit and the Poultry Industry Good Practice Checklist. We are happy that the control and contingency measures on site are sufficient to control odorous emissions from the site. We have therefore approved the Odour Management Plan for Penrhos Farm Poultry Unit. The OMP will be reviewed every year; or sooner if an odour complaint is received".

In this instance, as part of the ES, the applicant has provided a reasonable understanding of the emissions from the site, going beyond minimum standards (H4 guidance). Whilst there are some uncertainties associated with factors such as one-off extreme weather events or clean out; which as this independent (Airshed) review suggests, could introduce uncertainty into the overall conclusions. However, there are uncertainties associated with any odour modelling and these assessments form part of a wider understanding of the site.

The odour report also considered the 'in combination' effects of Penrhos Farm and Heath Farm which confirmed that there is little interaction between the plumes of the respective farms.

As confirmed in our previous letter, of 2 July 2014, we would not raise concern based on the information submitted, for odour or noise (discussed further below), or cast doubt on the ES conclusions that the proposed poultry units will not produce any unacceptable Environmental Impacts.

Noise: The applicant submitted a Noise Impact Assessment, prepared by Matrix Acoustic Design Consultants, Report No. M1330/R01, dated 8 October 2013. This has informed a Noise Management Plan (NMP). No further noise modelling work was carried out as part of the Permit application.

The noise assessment indicated a negligible impact on surrounding dwellings and therefore a low probability of likely complaints. If actual emissions from the broiler unit are greater than those modelled your Council should recognise the potential limitations of further noise reduction using commercially available techniques.

For your information, and in reference to the final paragraph of the Airshed Noise Review, the NMP controls feed and fuel deliveries with the inclusion of time restrictions. Delivery Lorries should be fitted with silencers. Whilst you may not wish to duplicate noise management conditions controlled by the EP, you may wish to impose a planning condition to secure matters not regulated by the permit e.g. hours of working.

In conclusion, it should be recognised that the odour assessment provided in the planning application (including ES) went beyond minimum H4 guidance. This confirmed that complaints were unlikely for odour and noise. We were reassured that there was not likely to be significant environmental effects.

Both an odour and noise management plan were submitted with the permit application, this will help control future operational impacts from within the permit installation boundary.

## **OFFICER COMMENTS**

Clearly both the Council's Environmental Health Manager and the Environment Agency raise no concerns with consideration to the reports on odour and noise by Airshed. It is clear that the Environmental Permit issued and monitored by the Environment Agency will address issues in relationship to odour and noise. With regards to odour issues it is noted that the applicant provided information beyond the 98th percentile odour modelling (minimum required under the H4 permitting guidance).

With regards to on site noise issues it is considered that the EP for the site will address issues of concern in relationship to noise. It is noted that the EA response suggests consideration be given to a planning condition with regards to hours of working on site. With consideration to the site's location and animal welfare and husbandry issues an hours of working condition on balance is not considered necessary. It is also noted that the EA's response indicates that assessments provided by the applicant as part of the ES went beyond minimum H4. (Horizontal Guidance). This confirmed that complaints were unlikely on odour issues and this reassured the EA that there were not likely to be significant environmental effects.

The Environment Agent before issuing the EP agreed a noise management plan and this was carried out in accordance with supporting technical notes linked to H4.

Further evaluation of the submitted plans reveals the need to impose a slab level condition to ensure that it is constructed at the correct level in order to mitigate the impact of the development on the landscape.

It is recommended that an additional condition is attached to the approval notice with regards to slab levels. (I51).

## **NO CHANGE TO RECOMMENDATION**

Add additional condition in respect of slab level. (I51)

**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**

## **ADDITIONAL REPRESENTATIONS**

The applicant has responded with further information with consideration to comment made by a member of the public with regards to access to the site indicating that when permission was granted for the existing bungalow Hereford and Worcester Highways dictated where the access should be, and required the removal of an existing hedge to comply with visibility splay requirements. A hedge was re-planted and the present owner of The Forge is happy to have the offending hedge removed.

**OFFICER COMMENTS**

It is noted that the Transportation Manager raises no objection to the application.

**ADDITIONAL REPRESENTATIONS**

A further letter of support has been received from Cheryl Woolley, Pear Tree House, Leintwardine. The letter indicates the site cannot be described as open countryside, there are dwellings on either side of it, the site is not overlooked and is not visible from the road. There is a growing need for people to remain in their family villages.

**NO CHANGE TO RECOMMENDATION**



<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>27 AUGUST 2014</b>
<b>TITLE OF REPORT:</b>	<b>APPEALS</b>

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**CLASSIFICATION:** Open

## Wards Affected

Countywide

## Purpose

To note the progress in respect of the following appeals.

## Key Decision

This is not an executive decision

## Recommendation

That the report be noted.

## APPEALS RECEIVED

### Application 131003/F

- The appeal was received on 23 July 2014
- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against Discharge of Planning Conditions
- The appeal is brought by Miss Karen Harris
- The site is located at Losito Stud Harris Lodge, Whitchurch, Ross-On-Wye, Herefordshire, HR9 6EG
- The development proposed is Retain existing log cabin as a permanent dwelling on a brown field site.
- The appeal is to be heard by Written Representations

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

### Application 141209/FH

- The appeal was received on 30 July 2014
- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Planning Permission (Householder)
- The appeal is brought by Mr J Udall
- The site is located at Yewtree Cottage, Bringsty Common, Bringsty, Worcester, Herefordshire, WR6 5UJ
- The development proposed is proposed two storey extension to front and pitched roof to existing rear elevation.
- The appeal is to be heard by Householder Procedure

**Case Officer: Mr C Brace on 01432 261947**

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

**Enforcement Notice 133552/ENF**

- The appeal was received on 29 July 2014
- The appeal is made under Section 174 of the Town and Country Planning Act 1990 against the service of an Enforcement Notice
- The appeal is brought by Mr Paul Colley-Davies
- The site is located at The Hut, Winforton Woods, Winforton, Hereford, HR3 6EB
- The breach of planning control alleged in this notice is: Without planning permission the material change of use of a railway hut situated within the land to a building used for residential purposes.
- The requirements of the notice are: Permanently cease the residential use of the said railway hut identified within the land.
- The appeal is to be heard by Inquiry

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

***APPEALS DETERMINED***

**Application 133421/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 Mrs A Thomas
- The site is located at The Shippon, Brinshope, Wigmore, Leominster, Herefordshire, HR6 9UR
- The development proposed was proposed porch.
- The main issues were the effect of the proposed porch on the character and appearance of the host building and its setting.

**Decision:**

- The application was Refused under Delegated Powers on 7 April 2014
- The appeal was Allowed on 23 July 2014

**Case Officer: Mr P Mullineux on 01432 261808**

**Application 132130/F**

- The appeal was received on 25 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 I G and J P Hilditch Properties
- The site is located at School Cottage, Norton House School, Norton Canon, Hereford, HR4 7BH
- The development proposed was Change of use from self-contained granny annexe to residential
- The main issues were whether the proposal represents a sustainable form of development and the effect of the proposal on highway safety.

**Decision:**

- The application was Refused under Delegated Powers on 25 September 2013
- The appeal was Dismissed on 24 July 2014

**Case Officer: Mr C Brace on 01432 261947**

**Application 122524/F**

- The appeal was received on 3 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 Mr Paul Ballantyne
- The site is located at Ferrymead, 14 Villa Street, Hereford, Herefordshire, HR2 7AY
- The development proposed was Change of use of dwelling into 3 no apartments.

- The main issues were the effect of the proposal in respect of the traffic generated on the safe and efficient operation of the highway network in the vicinity of the appeal site and the character of the area.

**Decision:**

- The application was Refused at Planning Committee against Officer Recommendation on 17 July 2013
- The appeal was Allowed on 24 July 2014
- An Application for the award of Costs, made by the Appellant against the Council, was Allowed

**Case Officer: Ms K Gibbons on 01432 261781**

**Application 131821/F**

- The appeal was received on 1 April 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 Mr Lee Griffiths
- The site is located at Horn Hill Farm, Horn Hill, Drybrook, Gloucestershire, GL17 9BN
- The development proposed was construction of 40m x 20m menage and landscaping improvements.
- The main issue was: the effect of the proposed menage on the character and appearance of the surrounding area.

**Decision:**

- The application was Refused under Delegated Powers on 4 October 2013
- The appeal was Dismissed on 24 July 2014

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

**Application 131743/F**

- The appeal was received on 1 April 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 Mr And Mrs MT & MJ Haxley
- The site is located at Land adj Lord Nelson Antiques, Centre, Bishopstone, Hereford, HR4 7JN
- The development proposed was Erection of owners dwelling to replace existing residential accommodation lost by expansion of antiques centre business.
- The main issue was: whether the development is acceptable having regard to sustainability principles.
- **Decision:**
- The application was Refused under Delegated Powers on 19 September 2013
- The appeal was Dismissed on 30 July 2014

**Case Officer: Ms K Gibbons on 01432 261781**

**Application 131045/F**

- The appeal was received on 7 April 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 Mr R Powell
- The site is located at Cwm Steps Farm, Llanveynoe, Hereford, Herefordshire, HR2 0PJ
- The development proposed was New layby and turning area
- The main issues were: the effect of the proposal on the landscape and the biodiversity of the area.

**Decision:**

- The application was Refused under Delegated Powers on 1 October 2013
- The appeal was Dismissed on 30 July 2014

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

**Application 140009/F**

- The appeal was received on 28 May 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 Balimark Ltd
- The site is located at Land at Chasedale Hotel, Walford Road, Ross-on-Wye, Herefordshire, HR9 5PQ
- The development proposed was Erection of two new houses
- The main issue was: the effect of the proposed development on the Ross-on-Wye Conservation Area, having regard to the statutory test to pay special attention to the desirability of preserving or enhancing the character or appearance of that area.

**Decision:**

- The application was Refused under Delegated Powers on 21 March 2014
- The appeal was Dismissed on 12 August 2014

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

## **APPEAL COSTS**

**Application 122524/F**

- The appeal was received on 3 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 Mr Paul Ballantyne
- The site is located at Ferrymead, 14 Villa Street, Hereford, Herefordshire, HR2 7AY
- The development proposed was Change of use of dwelling into 3 no apartments.
- The main issues were the effect of the proposal in respect of the traffic generated on the safe and efficient operation of the highway network in the vicinity of the appeal site and the character of the area.

**Decision:**

- The application was Refused at Planning Committee against Officer Recommendation on 17 July 2013
- The appeal was Allowed on 24 July 2014
- An Application for the award of Costs, made by the Appellant against the Council, was allowed the amount agreed is £5,750 + VAT.

**Case Officer: Ms K Gibbons on 01432 261781**

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





<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>27 AUGUST 2014</b>
<b>TITLE OF REPORT:</b>	<b>P140953/F - VARIATION OF CONDITIONS 1(A), 1(C), 1(D) AND 2 OF DCSE2008/0996/F AT HOMME FARM, HOM GREEN, ROSS-ON-WYE, HR9 7TF</b>  <b>For: Mr Drummond per Mr Antony Aspbury, Unit 20, Park Lane Business Centre, Park Lane, Basford, Nottingham, NG6 0DW</b>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=140953&amp;search=140953">https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=140953&amp;search=140953</a>

**Date Received: 25 March 2014**

**Ward: Kerne Bridge**

**Grid Ref: 357847,221937**

**Expiry Date: 24 June 2014**

Local Member: Councillor JG Jarvis

## 1. Site Description and Proposal

- 1.1 Homme Farm is located approximately one kilometre from the south-western edge of Ross-on-Wye. The farm holding comprises 377 hectares of open countryside extending eastwards from the River Wye towards the B4234 Ross-on-Wye to Walford road. The whole of the farm is located within the Wye Valley Area of Outstanding Natural Beauty (AONB). The site for the application comprises a total of seven separate fields within the farm-holding, one of which is bisected by a public right of way.
- 1.2 The adopted Landscape Character Assessment identifies all of the fields affected by this application, and much of the rest of the farm, as 'Principal Settled Farmlands'. The potential for regular change in farming practices is a key element of this character type. The wider farm-holding outside the proposal sites also occupies areas classified as 'Riverside Meadows', associated with the River Wye. The farm holding encompasses 'Hill Court', which comprises various important listed buildings, other structures, and a Registered Historic Park/garden. There are several other listed buildings close to the affected fields, including 'Old Hill Court'. Goodrich Castle, a Scheduled Ancient Monument (SAM) and Grade I listed site, occupies a spur of land to the south on the opposite side of the Wye and approximately 1 kilometre from the southern-most point of the application site. The farm is visible, or partially visible, from surrounding high ground such as Howle Hill, Chase Hill, Bulls Hill and Coppett Hill, located to the east and south-east of the application site at an approximate distance of between 1 and 3 kilometres. It is also fleetingly visible from the A40(T) which runs parallel to the River Wye to the west, through trees. The Homme's farm-holding abuts the River Wye [Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI)], although none of the application fields adjoin the river. Three Public Rights of Way cross Homme Farm, and others in the wider area provide views towards the farm.

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Further information on the subject of this report is available from Mrs D Klein on 01432 260136

1.3 Planning permission was granted on 15 October 2008 under reference DCSE2008/0996/F (081040/F) for the erection of polytunnels to be rotated around the holding on an annual basis. The polytunnels are of varying length, with a typical width of 6.5 - 8 metres and a height of 3 - 3.7 metres. The clear polythene covers are removed from the end of November to the end of January each year. Under the existing permission, 152 hectares (approximately 40% of the total, shaded pink on Approved Plan DLA 1226/06 Rev A), are entirely excluded from polytunnel use. Within the remaining 60% (225 hectares), no more than 54 hectares (24%) may be covered with tunnels at any one time and there is a limit of 10 hectares' coverage in any single block of tunnels. The permission has an expiry date of 15 October 2018.

1.4 The current application is for modification of the extant permission (reference DCSE2008/0996/F). It does not necessitate consideration of the entire scheme, only the variation itself. The submission explains evolving operational trends since the permission was granted. Farming practices now favour 'table-top growing' in channels which are raised above ground level. This method does not entail using the soil beneath and annual crop rotation would therefore be unnecessary. The applicant seeks to vary conditions 1 and 2 of the above permission as follows:

- Reduce the overall polytunnel coverage by about 10%, to a maximum total of 48.5 hectares at any time, on specific permanent sites with no annual rotation [Condition 1(a)]
- Remove the limit of 10 hectares for any one block [Condition 1(c)]. It should be noted that this was directly related to the rotation scheme. The new proposals plan shows the coverage would still be below 10 hectares in any one block, excluding buffer strips around field margins.
- Remove the ten-year time limit [Condition 1(d)]
- Remove the requirement to submit annual rotation plans [Condition 2]

1.5 The application is supported by the following documents:

Spatial Planning Statement (AAA March 2014)

- Sets out the applicant's position in terms of the policy context including changes in perceptions and general attitudes, along with national and local policies developed since the original permission was granted. This includes the AONB Management Plan;
- Outlines key points in the context of reducing tunnel coverage and ceasing field rotation;
- Weighs up material planning considerations including UDP policy LA1, outlining benefits from reduced impacts, support for the rural economy, lengthened growing seasons and reduced dependence upon imported fruit.

Statement of Community Involvement (AAA March 2014)

- Details of public exhibitions held in August 2012 and January 2014 to explain the proposals to interested parties, including arrangements to publicise the exercise;
- Analyses comments received;
- Takes account of Pre-application Advice sought and given

Transport Statement (Bancroft Consulting May 2012 updated January 2014)

- Assesses business development and specific transportation considerations from the proposal in the context of the existing permission, the working farm and the proposals.

Ecology and Nature Conservation (DLA 2012)

- Updated ecological report including proposed mitigation measures.

### Landscape and Visual Impact Assessment (DLA 2014)

- Detailed analysis of the wider area and specific details relating to the new proposals including proposed mitigation.

### Flood Risk Assessment (Envireau Water Oct 2012)

- Takes account of the need for permanent polytunnels to meet 'greenfield run-off' equivalents or better;
- Outlines the scope for permanent polytunnels to collect rainwater for irrigation;
- Details methodology and existing measures for silt management.

### Water Resources Risk Evaluation (Envireau Water June 2012)

- Identifies and assesses potential risks to the River Wye SSSI/SAC and its ecology, and proposes mitigation;
- Assesses drainage, abstraction, irrigation and water management proposals.

### Business Appraisal (CLM 2012)

- Assesses employment prospects for the business;
- Contribution to the county and rural economies including ancillary markets and customers;
- Soft fruit trends in the UK and reduction in dependence on imports;
- Extension of growing seasons and yields.

## 1.6 **Environmental Impact Assessment (EIA)**

Herefordshire Council issued a formal Screening Opinion with regard to this proposal, dated 30 November 2012 and signed by the Head of Neighbourhood Planning on 5 December 2012. The adopted opinion was that the proposal as presented is not EIA development under the terms of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (The EIA Regulations). It has been established that polytunnels do not fall within the scope of the EIA Regulations. The matter of cumulative impact thus does not arise, since polytunnels are not caught. They are not listed, nor anything similar or comparable, among the relevant development types in any part of Schedule 1 or 2, and do not affect 'uncultivated or semi-natural' land since all the relevant fields are already used for polytunnels. Part 13 of Schedule 2 relates to cumulative impacts from changes to development which has already been assessed as EIA, which is not the case here.

- 1.7 It is noted that caravans for workers may be caught depending on circumstances, but this proposal does not include or affect any caravans. There have been no changes to this proposal, its circumstances or the legislation since the proposed variation was first mooted in 2012 so it was considered unnecessary to re-screen in 2014. The Environmental Impact Assessment (Agriculture) (England) (No 2) Regulations 2006 are administered primarily by Natural England. These Regulations serve to protect uncultivated land and semi-natural areas from adverse effects by agriculture. They consider two types of project: works to uncultivated land, and projects which involve remodelling of agricultural land. This proposal does not affect any uncultivated land and does not entail any physical remodelling. These Regulations are thus not relevant to this case.

## 2. **Policies**

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

This came into force in March 2012 and constitutes a material consideration in the assessment process. It defines 'sustainable development' and is to be regarded in its entirety, with particular reference in this case to paragraphs 6-17, sections 1, 3, 7, 10, 11, 12, and

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Further information on the subject of this report is available from Mrs D Klein on 01432 260136

paragraphs 186-206. The NPPF carries greatest weight at present but it was not in force at the time of the original approval for polytunnels at this site.

2.2 **Regional Spatial Strategy for the West Midlands:** This policy document was formally revoked by Statutory Instrument (SI) 2013/933, which came into effect on 20<sup>th</sup> May 2013. Although relevant in 2008, it no longer plays any part in strategic or local planning policy.

2.3 **Herefordshire Unitary Development Plan 2007** – Regard must be had to the adopted development plan for the purposes of determination. Such determination must be made ‘in accordance with the plan unless material considerations indicate otherwise’ (s38 (6) Planning and Compulsory Purchase Act 2004). Policies which have been formally ‘saved’ during the development of the Core Strategy remain in force and carry weight, where they accord with the NPPF. For the avoidance of doubt the following policies were considered relevant at the time of considering the original application in 2008 and are included as saved policies:

Part I

- Policy S1 - Sustainable Development
- Policy S2 - Development Requirements
- Policy S4 - Employment
- Policy S6 - Transport
- Policy S7 - Natural and Historic Heritage

Part II

- Policy DR1 - Design
- Policy DR2 - Land Use and Activity
- Policy DR3 - Movement
- Policy DR4 - Environment
- Policy DR7 - Flood Risk
- Policy DR11 - Soil Quality
- Policy E13 - Agricultural and Forestry Development
- Policy LA1 - Areas of Outstanding Natural Beauty
- Policy LA2 - Landscape Character
- Policy LA4 - Protection of Historic Parks and Gardens
- Policy LA5 - Protection of Trees, Woodlands and Hedgerows
- Policy LA6 - Landscaping Schemes
- Policy NC1 - Biodiversity and Development
- Policy NC3 - Sites of National Importance
- Policy NC5 - European and Nationally Protected Species
- Policy NC6 - Biodiversity Action Plan Priority Habitats and Species
- Policy NC7 - Compensation for Loss of Biodiversity
- Policy NC8 - Habitat Creation, Restoration and Enhancement
- Policy NC9 - Management of Features of the Landscape Important for Flora and Fauna
- Policy HBA4 - Setting of Listed Buildings
- Policy T6 - Walking

2.4 **Herefordshire Core Strategy**

The adoption process for the Core Strategy is at an advanced stage aiming for completion during 2015. The following policies are relevant but carry negligible weight at the time of writing:

- Policy SS1 - Presumption in favour of sustainable development
- Policy SS4 - Movement and transportation
- Policy SS5 - Employment provision
- Policy SS6 - Addressing climate change
- Policy LD1 - Landscape and townscape

Policy LD2	-	Biodiversity and geodiversity
Policy LD3	-	Green infrastructure
Policy LD4	-	Historic Environment and heritage assets
Policy SD1	-	Sustainable design and energy efficiency
Policy SD3	-	Sustainable water management and water resources
Policy RA3	-	Herefordshire's countryside
Policy RA6	-	Rural economy
Policy MT1	-	Traffic management, highway safety and promoting active travel

## 2.5 Other Policy and Guidance

Polytunnel Supplementary Planning Document: Adopted December 2008  
 Landscape Character Assessment 2004 as updated  
 Wye Valley Area of Outstanding Natural Beauty Management Plan 2009 – 2014

## 2.6 Legislation

Town and Country Planning (Environmental Impact Assessment) Regulations 2011  
 The Conservation of Species and Habitats Regulations 2010 (The Habitats Regulations)

2.7 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	DCSE2002/2715/S	Offices and amenity facilities.	-	Prior approval not required 01.10.2002
	DCSE2002/3635/S	Implement store	-	Prior approval not required 15.01.2003
	DCSE2008/0995/F	Construction of irrigation lakes.	-	Withdrawn
	DCSE2008/0996/F	Siting of polytunnels	-	Approved 15.10. 2008
	DCSE2009/0670/F	Resubmission of irrigation lakes	-	Approved 08.07.2009

## 4. Consultation Summary

### Statutory and other external consultations

- 4.1 Environment Agency: No objection to the proposed variation of conditions, noting that all of the polytunnel sites are within flood zone 1 (low risk).
- 4.2 Natural England: We did not request a temporary permission and so would not object to its removal. We have no landscape concerns on the proposal, but AONB Officer advice should be heeded. Overall, the move to permanent sites would be an improvement. Rotation does little to alleviate visual impacts, and the proposal offers more opportunities for screening. It also offers benefits with regard to drainage and silt management. No objection.
- 4.3 English Heritage: No new comments offered, relying on their letter dated 27 August 2008 in respect of the original application. For clarity, at the time this stated: "We do not wish to comment in detail, we advise that any permission should [include] .....binding agreement ensuring the establishment of historic field boundaries within one year, and limitation of the permission to ..... ten years" [from 2008].

- 4.4 National Grid: No objections (proximity to a High Voltage Transmission Overhead Line).
- 4.5 Health and Safety Executive (HSE): does not advise, on safety grounds, against the granting of planning permission in this case [due to major below-ground energy infrastructure works currently under construction in the general area, involving significant earthmoving operations not connected with the farm].
- 4.6 Wye Valley AONB Officer – If this were a new application we would consider it to be ‘major development’ invoking NPPF paragraph 116. However as this is a variation we accept that the use of polytunnels is already approved. The AONB unit did not support the original application and we still consider that, in principle, polytunnels have a detrimental impact on the AONB. The proposal would however have some positive outcomes. In particular, we support the move away from Goodrich Castle and reduction of tunnels visible from the A40. Planting takes time to mature; we consider the permission should remain temporary, to be reviewed when the landscaping is better established. However, permanent locations should enable ‘whole farm’ landscaping measures to maximise screening in the wider landscape.
- 4.7 Hereford and Worcester Gardens Trust - I write to defend the setting of Hill Court grade II\* listed building set within a Registered Park and Garden, embraced by the River Wye and besieged by polytunnels for more than a decade. The removal of some polytunnels from the ground to the south of the formal gardens is welcomed to preserve foreground views to Goodrich Castle, but Hill Court is still surrounded. Polytunnels are a blight on the AONB and adversely affect appreciation of the Wye Valley between Ross and Goodrich. I appreciate the applicant is trying to rationalise the use of plastic around Hill Court. It is time to identify a moment for complete removal to somewhere less sensitive e.g. Eastern Europe or Spain.

#### Internal Council Advice

- 4.8 Transportation Manager: No adverse highways implications from the proposal
- 4.9 Public Rights of Way Manager: No objection providing all rights of way remain unobstructed and walkable.
- 4.10 Conservation Manager: -
- (a) Building Conservation Officer - No objection. The proposal would reduce the area of land under polytunnels, with no unexpected additional effects on the numerous listed buildings in the vicinity. The 2008 permission allows for the setting of these designated sites, and screening continues to mature. The impact is within acceptable limits bearing in mind the working agricultural landscape. Reduced coverage and static locations would be an improvement. There is considered to be sufficient distance and landscaping to avoid major impact on the setting of heritage assets in this area
- (b) Landscape Consultant - No objection. Comments are in the context of discussion with the applicant to provide supplementary landscape enhancement, following a site visit. The applicant has established hedgerows which are now two to three metres high. To aid further screening, native and orchard trees should be planted adjacent to some of these hedgerows. Sustainable drainage should be deployed to minimise silt run-off. Opportunities for supplementary biodiversity enhancement measures should be pursued.
- (c) Ecologist - Recommend approval with conditions. The submitted ecological report appears to be sound and its observations valid. Please note that there are now records of Great-crested newt in the vicinity. There is potential to secure additional

biodiversity enhancement through an approval. Improved hedgerow and fieldmargin management should provide connectivity [for wildlife].

- (d) Habitats Regulations Assessment Screening: Systems are in place to prevent nutrients from entering the river [Wye]. Trickle irrigation and controllable water/fertiliser input for table-top growing offer potential for significant progress towards less environmental impact, in combination with the approved winter storage reservoirs currently under construction. In consequence I would find that this application demonstrates 'No Likely Significant Effect' upon the River Wye Special Area of Conservation (SAC) arising from this proposal.

4.11 County Land Agent: Supports the proposal: The change to permanent polytunnels is beneficial for the following reasons:

- a) It will be easier to install permanent drainage systems, manage rainwater and silt better and to benefit flora and fauna;
- b) Raised growing has recently proved to be a more effective, efficient and better-yielding method, and is superseding rotational ground-based growing. They facilitate harvesting and reduce the use of chemicals;
- c) Table-top growing is beneficial to worker health and safety as no bending is involved.
- d) Saving in labour costs and traffic by removing construction and deconstruction of tunnels.

## 5. Representations

5.1 Walford Parish Council - Supports the application with the following caveats: that the ten-year time limit should not be removed, but extended to ten further years from now; to find practical solutions to reduce visual impact, e.g. by screening and materials used.

5.2 Two letters of objection have been received from local residents (Lady S Waterhouse and Mr P Dewhurst). The points raised are summarised as follows:

- Oppose the development in an AONB;
- This further undermines the concept of the AONB and the public amenity;
- The potential for tourism is being stifled by polytunnels and caravans;
- The financial benefits are questionable;

5.3 Approximately forty-seven letters and emails of support have been received. The points raised are summarised as follows: -

- It will be more environmentally friendly;
- It will help to secure the farm, and support jobs and other businesses in this area;
- I understand the necessity of such change to keep up with farming challenges. It will be beneficial to all, and to business efficiency in an ever-changing market;
- We appreciate the applicant's pro-active and responsible approach;
- It makes perfect sense to support this proposal as the fruit business is so important to the local economy. The request to extend the time limit seems very fair;
- The change to table-top growing is sustainable and efficient;
- The change to table-top growing helps water efficiency, soil management and pollution prevention
- Farming needs pro-active support to enable long-term planning and secure food supply contracts;
- The applicant supports jobs and a wide range of local suppliers of goods and equipment
- The business helps British industries. The alternative is increased imports from other countries;
- The applicant contributes significantly to the local economy;

- The revisions appear to consider the landscape and environment and should be supported.

5.4 One 'mixed response' letter has been received, with no objection to the proposal but requesting consideration of wider field margins and the avoidance of spraying near houses at weekends/holiday and evenings.

5.5 Three representations have been received from other organisations, summarised as follows: -

- a) CPRE Herefordshire
  - We are concerned about the unsuitability of the site, which is all within the AONB;
  - The 2008 application was decided as a Departure from policy, specifically LA1;
  - Policy LA1 will be nullified if this application is granted for permanent polytunnels;
  - This type of growing can be done on abandoned airstrips and barren land and does not need to be on good agricultural ground;
  - Views in the AONB are adversely affected;
  - Removal of tunnels from the close views of Goodrich Castle is appreciated, but hedge-planting etc cannot reduce the cumulative impact of gleaming plastic;
  - We disagree with the Council's view that EIA is not required;
  - Comments on Environmental Impact Assessment implications with regard to workers caravans.
- b) Campaign for Polyunnel Control (CPC) – No decision should be made until the outcome of the appeal at Pennoxstone Court is known. Policy LA1 was central to the Council's argument to refuse the King's Caple application and the same reasons follow. Permanent rights should definitely not be granted.
- c) Ross Civic Society – We do not object to the application provided it is not paving the way to further permanent polyunnel coverage of the entire area in which polytunnels are presently rotated.

5.6 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

6.1 The main issues for consideration in the application are:

- The principle of the request to vary conditions 1 and 2 of the existing permission;
- Policy context and relevant material considerations;
- Changing farming practices; contribution to the rural economy;
- Wye Valley Area of Outstanding Natural Beauty (AONB) and local heritage assets;
- Landscape and biodiversity including the River Wye SSSI and SAC,
- Drainage, water and silt management;
- Other matters.

### Principle of the proposal

6.2 The principle of polyunnel use is well-established at The Homme, and the proposal is to vary the approved scheme. The permission granted in 2008 followed protracted national consideration as to whether or not polytunnels require planning permission; and thus how and whether they should fit into the planning system in terms of policy and operation. Due to



uncertainty at the time, the first application relating to The Homme volunteered a proposal for a temporary permission for ten years to allow for any outstanding technical and legal matters to resolve themselves. These points have since been settled.

- 6.3 The proposal has three distinct elements: (a) to reduce the overall area of land where polytunnels would be deployed by about 10%; (b) to cease rotating the tunnels on an annual basis and (c) to remove the limit of ten years on the existing permission. The general principle of siting polytunnels on this farm-holding is well-established and the proposal is presented to Planning Committee on this premise.
- 6.4 In principle, the reduction of the land area put to polytunnels is considered beneficial. The choice of fields shows sensitivity to landscape character in terms of UDP policy LA2, including pulling further away from the River Wye and Goodrich Castle. The proposed plans (Figs 'A' and Figs 1-6)) allow for wide field margins from a minimum of 10 metres, up to 30 metres where they adjoin residential properties. The farm plan of the proposed coverage shows the designated fields with wide buffer strips and excluded areas. These site plans show that the limit of ten hectares for any single block of polytunnels would in practice continue. The application seeks to remove this stipulation (sub-clause (c) of condition 1 of the permission), but officers consider it remains necessary, to clarify the public record rather than relying on shaded areas on plans. Negotiation has resulted in agreement with the applicant to retain clause 1(c). The overall reduction from 54 to 48.5 hectares in total would result in less than 13% of Homme Farm being used for tunnels.
- 6.5 The changing trend towards static sites compares favourably with field rotation practices, offering stability and consistency in terms of landscape and public views of the area. It would allow screening to be more effective over time. It would also offer opportunities to improve surface water and silt management. There is also a sustainability element in the saving of fuel and resources by ceasing the annual transport and set-up of equipment, and table-top growing is considered more efficient. Farmers must operate within a competitive market economy dominated by the food industry; the planning system should not seek to unnecessarily restrict technical evolution in a way that could inadvertently disadvantage any one farmer.
- 6.6 With regard to the removal of the ten-year time limit, the now archived Circular 11/95 was still in force in 2008, and offered clear advice that the scope for imposing a temporary permission is very limited. Part 2, paragraph 109 stated '*...the reason for granting a temporary permission can never be that a time limit is necessary because of the effect of the development on the amenities of the area. Where such objections ... arise they should, if necessary, be met by conditions whose requirements will safeguard the amenities.*' It went on to say '*... a temporary permission will normally only be appropriate either where the applicant proposes temporary development, or when a trial run is needed in order to assess the effect of the development on the area.*' Circular 11/95 has now (2014) been superseded by the on-line National Planning Practice Guidance, but this repeats the limited scope for such imposition, and also states that '*it will rarely be justifiable to grant a second temporary permission*' (section on the use of planning conditions referenced ID:21a-015-20140306)
- 6.7 Circular 11/95, the National Planning Guidance, and paragraphs 204 and 206 of the NPPF all set out the 'six tests' which must be met for a planning condition to be deemed lawful. These are that conditions must be:
- i. Necessary;
  - ii. Relevant to planning;
  - iii. Relevant to the development to be permitted;
  - iv. Enforceable;
  - v. Precise; and
  - vi. Reasonable in all other respects.

- 6.8 The original application for polytunnels included a request for a ten year permission, almost 6 of which have now passed. Arguably this has allowed time to ascertain the extent of any effects, and to establish other outcomes such as farming efficiency and the rural economy, which might carry weight. On the basis of paragraphs 6.6 and 6.7 above, officers conclude that in principle the retention, extension or re-imposition of a time limit would be neither 'necessary' nor 'reasonable' and that a 'trial run' is no longer appropriate. Since the applicant has now requested its removal, it is suggested that continuing this approach could not meet the terms of the National Planning Policy Framework or Guidance and on that basis could not stand up to scrutiny.

#### Policy Context and material considerations

- 6.9 The National Planning Policy Framework (NPPF) is the key material consideration at this time. It is to be regarded in its entirety, and sets out a presumption in favour of 'sustainable development', as defined in paragraphs 7 to 15. The three strands of sustainability (economic, social and environmental) are interdependent and not viewed in isolation. In this case, the economic role is predominant, but there is a social role in producing affordable British-grown food, and an environmental role in reducing the impact of imports, and the fact that commercial success helps to enable provision of landscaping and biodiversity enhancement. These broader positive factors are balanced against any specific identified adverse impacts. Section 3 of the NPPF seeks to support rural prosperity and section 10 considers climate change. Section 11 seeks to 'conserve and enhance' biodiversity, and the applicant has made significant improvements to habitats since approval was granted. The proposal complies with the NPPF in seeking to adapt food production operations to meet changing demands and circumstances.
- 6.10 The applicant's positive contribution to the rural economy and mitigation measures already implemented for screen planting and wildlife habitats are important factors in meeting policy requirements, in particular UDP policies LA5, LA6, NC8 and NC9. Section 11 of the NPPF is relevant. The reduction in covered area and the cessation of rotation are regarded as beneficial, and the removal of the time limit was discussed at paragraph 6.6 above. On balance officers regard the nature of the proposal as relatively minor in policy terms, as it would reduce the effects of development already approved and allow further environmental opportunities.
- 6.11 Also in section 11 of the NPPF are paragraphs 115 and 116. These place great weight on protecting the status and attributes of designations such as AONB, in relation to landscape, scenic beauty and the conservation of wildlife. Paragraph 116 advocates refusal '*for major developments [in the AONB] except in exceptional circumstances and where it can be demonstrated that they are in the public interest*'. Assessments should establish the need for the development and the impact of permitting or refusing it on the local economy; the cost of and scope for locating it elsewhere or in some other way; effects on the environment, landscape and amenity and the potential for mitigation. This application addresses these requirements. The original application was regarded as major development in the AONB, and a 'Departure' from UDP Policy LA1, and was approved following lengthy and detailed considerations. All the relevant factors were taken into account at the time. This application is to vary three aspects of that previously approved outcome. As a technical precaution it has been treated as a 'major' application due to the area of land involved, and as a 'Departure' from UDP policy LA1 since it is within the AONB and the parent application was considered as such.
- 6.12 The Herefordshire Unitary Development Plan (UDP) was in full force in 2008 but is now reaching the end of its life, in favour of the emerging Core Strategy. The UDP policies relied upon in 2008 are listed at point 2.3 above for the avoidance of doubt, but their relevance to this application is reduced. In particular, policy LA1 was an important factor in 2008 but now requires reconsideration. It sets criteria for development in the AONB, favouring small-scale

projects that do not adversely affect the designation. Exceptions are possible provided there is overriding national interest, a low risk of adverse economic effects, no alternative site outside the AONB, and a good potential for environmental mitigation. With regard to the proposed variations of conditions, officers consider that all but the first criterion are met bearing in mind that the principle of siting polytunnels is not in question. However, policy LA1 now carries less weight, particularly in light of point 6.13 below.

6.13 The Planning Inspector recently considering an appeal relating to unauthorised polytunnels at Pennoxstone Farm, also in the AONB, (references APP/W1850/C/13/2206638 and 39) noted a conflict between local policy LA1 and the NPPF. In her view UDP policy LA1 now carries little weight, concluding that paragraph 116 of the NPPF takes precedence. This is a very recent decision but it does demonstrate a current trend. Officers consider that the proposal to vary the existing permission at The Homme is not physically 'major development' as it does not entail any new works and would in fact reduce the extent of covered land. Nevertheless it has been considered as 'major' purely in land area terms. Paragraph 116 of the NPPF sets out the circumstances and factors for approving major developments in designated areas:

- The need for the development including national considerations and effects on the local economy;
- The cost of and scope for locating the proposal outside the designation;
- Potential for mitigation of environmental effects.

The significant contribution of farming enterprise to the local economy is acknowledged; all of the applicant's relevant land-holding lies within the AONB; and environmental mitigation is already in place with scope for additional measures. On balance officers consider the proposal can meet paragraph 116 of the NPPF.

6.14 The emerging Core Strategy echoes the less prescriptive nature of the NPPF. Until such time as the Core Strategy is formally approved and adopted, its policies are a material consideration but have limited weighting in determining current applications. The NPPF is the key consideration at the time of writing.

#### Changes in farming practices and efficiency, rural economy

6.15 The benefits of polytunnels to food production, plant quality and growing seasons are put strongly by the farming industry across Europe. The Council's 2008 adopted Polytunnel Supplementary Planning Document (SPD) considers the evolving trend for soft-fruit growers to use the 'table top' method. Crops are planted in a growing medium on linear structures raised to about chest height. These connect to an efficient computerised trickle-irrigation and nutrient system to deliver optimum growth. As the crops are not grown in the ground, there is no need to rotate them. The technique requires less land, which can also reduce other impacts. It is safer for the workforce as harvesting does not entail bending. There is considerable cost-saving by not moving and re-erecting the tunnels around the farm. Static sites also favour rain-water capture with consequent reduction in river abstraction, and better silt management opportunities.

6.16 The current permission for The Homme specifies field rotation. It was one of the earliest granted in Herefordshire, after a period of uncertainty and legal proceedings elsewhere in England. The applicant now finds his permission is over-prescriptive if he is to maintain his market position and secure supply contracts in competition with other growers. The Homme's contribution to the rural economy and Ross-on-Wye also supports other businesses such as suppliers of equipment and materials, customers, food producers, and the local spending power of the seasonal workforce. Modern soft-fruit farming is a national enterprise, seeking to extend growing seasons to support British produce and reduce dependence on imports. Letters of support recognise this national and local contribution. Notwithstanding

consideration of the farm's location within the AONB, officers accept these key points, which reflect section 3 of the NPPF in supporting growth in a 'strong rural economy'.

#### Wye Valley Area of Outstanding Natural Beauty, (AONB) and the setting of local heritage assets:

- 6.17 Paragraph 28 of the NPPF tacitly acknowledges the inherent potential for tension between the agricultural economy and 'sustainable rural tourism and leisure', and this becomes clearer in Section 11. How to strike a balance in a working countryside is a modern challenge. The primary purpose of AONBs is to conserve and enhance natural beauty, and they share equal status with National Parks. The Wye Valley AONB Management Plan 2009-2014 recognises the wide range of agricultural enterprises within its area, including broiler units, beef production, arable, apples and turf growing, as well as soft fruit. It states that 54% of the AONB is farmed intensively. It also acknowledges that food production is a '*key ecosystem service but must also be a viable business*', and highlights the tension between the ethos of the AONB and modern commercial farming. Poly tunnels are singled out as having a dramatic effect on the landscape. Whilst the AONB Officer maintains his aversion to poly tunnels in principle and concerns about permanence, he recognises the potential improvements from reducing the coverage and keeping the sites static. On balance, Officers consider that the proposal to reduce the coverage and vary the terms of the existing approval at The Homme could be broadly beneficial. It is noted that farming practices will continue to evolve over time, and screen planting will become more effective as it matures.
- 6.18 The 2008 application entailed detailed consideration of listed buildings in the vicinity of The Homme farm-holding, with particular attention given to the setting of Goodrich Castle (Grade I Listed and Scheduled Monument) and Hill Court (Grade II\* Listed building and Grade II Registered historic park). This application acknowledges the presence of these assets and makes every effort to reduce impacts, in the context of existing approved development. All the fields now proposed for permanent poly tunnels are already permitted, with no new areas. No evidence has been found to support the view that poly tunnels detract from visitor numbers to sites such as Goodrich and the Wye Valley. However, under the proposal the poly tunnel areas closest to the two important historic sites would be reduced, and the fields nearest to the River Wye would be taken out of tunnels altogether. Whilst Hill Court would still have tunnels nearby, the reduction overall is accepted as a benefit. The Conservation Manager has not objected or found any conflict with UDP policy HBA4 or section 12 of the NPPF. Fields closest to residential properties would be subject to 30 metre buffer strips to pull the tunnels away. This approach helps to address sensitivities identified in 2008, notably
- The River Wye floodplain
  - The lower sections of fields that form a 'pinch point' with the River Wye
  - Land where the siting of poly tunnels may affect the setting of listed buildings
  - Land where the siting of poly tunnels would affect the amenity of dwellings

#### Landscape and Biodiversity

- 6.19 UDP policy E13 considers agricultural development. The supporting text refers to the need to balance landscape impact against the operational needs of agriculture, recognising that necessary developments are often prominent in the rural landscape. Large-scale poly tunnel use can cause conflict between landscape protection and a viable farming industry. However, opinions about inevitable landscape changes and visual impact are subjective. With static sites and developing screen cover, the proposed reductions in coverage and removal of rotation are considered beneficial in the context of the existing permission, are welcomed by representations, and meet section 11 of the NPPF on this topic.
- 6.20 Since 2008, in meeting the first permission's requirements the applicant has reinstated numerous traditional hedgerows. These are maintained so as to maximise height and bulk for

screening, which also benefits wildlife. Additional orchard planting has been put in and these efforts will continue. The submitted 'Ecology and Nature Conservation' report (DLA Ltd June 2012) states that implementation of the previously approved scheme is substantially complete. This proposal, if approved, would build on this by adding bat and owl nest-boxes and increase rough grass/uncropped areas. During negotiations, the applicant has agreed to accept a further condition requiring an updated and improved scheme for landscaping and biodiversity enhancement in light of the new arrangements. Officers welcome this in terms of section 11 of the NPPF and UDP policies LA5, LA6, NC1 and NC6-9 inclusive.

#### Drainage, water and silt management

- 6.21 Also since the permission was granted in 2008, the applicant has implemented measures to minimise silt run-off, and secured a separate permission (reference DCSE2009/0670/F) for a series of winter storage reservoirs to reduce summer abstraction from the River Wye. These comply with sections 10 and 11 of the NPPF and UDP policies DR4 and DR11. They also have their own conditional requirements for landscape and biodiversity enhancement, restoration of Coughton Marsh SSSI, and a wildlife corridor. Growing methods now involve computerised systems which optimise water use and minimise pollution from chemical fertilisers and pest control. Static sites allow grass to be grown beneath the table-tops. This stabilises the ground, helps protect soil health and reduces silt run-off. On balance, officers consider that the move to static table-top sites would have a series of benefits to soil structure, water management and pollution prevention including benefits to the River Wye SSI/SAC.

#### Other matters

- 6.22 Highways and Transport: There are no adverse highways implications from the proposed changes. There would be some beneficial reduction in road traffic due to the removal of the need to transport infrastructure from site to site and less risk of mud on the lanes. The Public Rights of Way Manager has no objections; the local path network was subject to a comprehensive assessment in 2008 and there would be no additional impacts. The establishment of static sites would benefit the enjoyment of walkers. Officers consider there would be no conflict with UDP policies T6 and T8, nor section 4 of the NPPF.
- 6.23 Residential amenity: In 2008 it was accepted that the siting of polytunnels close to residential dwellings can adversely affect amenity relating to visual impact, noise and disturbance. In this regard it was considered there should be no polytunnels within 30 metres of any residential property. There is no proposal to alter this, and the proposed plans show that this would be continued.

#### **Summary and Conclusion**

- 6.24 The proposal has been considered in detail and with great care. The weight to be given to UDP policy LA1 is now questionable in light of the much greater weight given to the NPPF. In terms of the proposals, the reduction of polytunnel coverage to less than 13% of the farm-holding and the change from rotational to static sites are both regarded as beneficial in light of evolving practices, policy changes, and the experience gained since 2008. Furthermore, it has been demonstrated at paragraphs 6.6 to 6.8 above that the request to remove the temporary nature of the permission is reasonable. However, it has been agreed with the applicant that the limit of ten hectares in any one block should be continued in the interests of clarity on the public record. This negates the need to vary condition 1 (c). Officers welcome the applicant's expressed willingness to accept an additional condition to secure further landscape/biodiversity enhancement in light of the changed regime.
- 6.25 As a result, officers are able to recommend to the Planning Committee that permission should be granted for variations to conditions 1 (a), 1 (d) and 2 of planning permission

DCSE2008/0996/F [081040/F]. The remaining conditions would be maintained insofar as they would remain relevant, with updates to reflect current circumstances. It should be noted that the original permission and the approved schemes arising from it would continue to subsist.

## **RECOMMENDATION**

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

- 1. This permission effectively updates and supersedes the previous permission under reference DCSE2008/0996/F [081040/F], which approval however continues to subsist in principle. The development shall henceforth from the date of this permission take place only in accordance with that permission as it is updated by the proposals and recommendations in this variation. For the avoidance of doubt, the approved plans and details are now as follows, which supersede all other operational plans:**
  - i. Fig 00 site plan 'Application Boundaries' (DLA Ltd March 2014);**
  - ii. Fig. A – Site detail overview (DLA Ltd 2014);**
  - iii. Fig 1 'Stable Field' detail;**
  - iv. Fig 2 'Front Orchard Field' detail;**
  - v. Fig 3 'Dillo Field' detail;**
  - vi. Fig 4 'Barn Field' detail;**
  - vii. Fig 5 'Balls, House and Punjab Fields' detail;**
  - viii. Fig 6 'Callow Front Drive Field' detail (Figs 1-6 DLA Ltd all dated Nov 2013)**
  - ix. Landscape mitigation proposals described in the Landscape and Visual Impact Assessment Statement [Reference DLA1419LVIA/rpt.1/Aug '12 (updated January 2014]**
  - x. Biodiversity enhancement mitigation proposals described in the Ecology and Nature Conservation report [Reference DLA1419/Eco/Phase 1/rpt.1/June '12]**

**Items xi, xii, and xiii below formed part of the approved plans under DCSE2008/0996/F and shall continue to be adhered to:**

- xi. Landscape and Visual Assessment received 14th April 2008**
- xii. Surface Water Mitigation and Management Report prepared by JDIH Envireau and received by the Local Planning Authority, dated June 2007, addendum dated 1 April 2008, and Supplementary Report dated 26 June 2008**
- xiii. Ecological Appraisal Ref 1226/ecorpt-1 dated 27 July 2007 and Ref 1226/2ecorpt-2 dated June 2008 prepared by Davies Light Associates**

**The development shall be carried out in accordance with the above approved plans and details subject to the following stipulations:-**

- a) Not more than 48.5 hectares of the land shall be covered with polytunnels, or any part or parts thereof excepting the legs, at any time, for which purposes any uncovered hoops in a row shall be measured from the first to the last to be included in this coverage.**
- b) There shall be no polytunnels sited within the applicant's farm-holding other than within the areas of land identified and outlined in red on Fig 00 'Application Boundaries' (DLA Ltd March 2014) unless a specific planning permission has been granted.**
- c) Notwithstanding the submitted application there shall be a limit of 10 hectares on the coverage in any single block of polytunnels.**

**Reason: For the avoidance of doubt; to ensure a satisfactory form of development in order to safeguard and maintain the visual amenity of the area; and to ensure that the**

development conforms with Policies DR1, LA2, LA5, LA6 and HBA4 and the requirements of the National Planning Policy Framework.

2. Within 6 months of the date of this permission a scheme for additional landscaping, biodiversity and silt/surface water management enhancement shall be submitted to and approved in writing by the local planning authority. The scheme shall supplement the schemes previously approved and relate to the change from rotational to static sites, shall contribute to a 'whole farm plan' approach, and shall include in particular:
- a) A brief summary update of the measures implemented to date since 2008 and listing any outstanding items or works-in-progress;
  - b) A brief assessment of the existing planting/seeding scheme in terms of implementation and success, followed by further planting and screening improvement proposals, to include a proportion of standard and orchard fruit trees of appropriate native species, with an aim to consolidate and strengthen the existing scheme where necessary, in light of the permanent and static nature of polytunnel coverage hereby permitted;
  - c) A brief assessment of the existing biodiversity enhancement measures in terms of implementation and success, followed by proposals for further measures to support wildlife and create or enhance habitats with a reference to Biodiversity Action Plan priorities and the recommendations in the submitted 'Ecology and Nature Conservation' report (DLA Ltd June 2012).
  - d) A brief assessment of existing silt and run-off management measures in terms of implementation and success, followed by further measures where necessary, to improve diffuse pollution prevention, in light of the permanent and static nature of polytunnel coverage;
  - e) Method statement and Management Plan for implementation, maintenance and after-care of the revised scheme, including time-scales, provision for periodic review, and the replacement of any failed planting or seeding.

The scheme shall be implemented as approved and maintained in conjunction with the previously approved schemes for the life of the development.

Reason: In order to secure further effective measures for landscaping, biodiversity enhancement and pollution prevention, to safeguard and maintain the visual amenity and heritage of the area and to ensure that the development conforms with Herefordshire Unitary Development Plan Policies S2, DR1, DR4, DR11, LA2, LA5, LA6, HBA4 4, NC1, NC6, NC7, NC8, NC8 and NC9, and the requirements of the National Planning Policy Framework in its entirety with particular reference to sections 10, 11 and 12.

3. No polytunnels shall be sited within 2 metres of the centre line of any public right of way.

Reason: To ensure that no public right of way is obstructed and to ensure that their enjoyment is safeguarded in accordance with policy T6 of the Herefordshire Unitary Development Plan 2007 and the requirements of the National Planning Policy Framework.

4. No polytunnel shall be sited within 30 metres of the boundary of any residential curtilage of any dwelling house unless otherwise agreed in writing with the Local Planning Authority.

Reason: To safeguard the amenities of the occupiers of dwelling houses in the immediate vicinity in accordance with policy DR1 of the Herefordshire Unitary Development Plan 2007 and the requirements of the National Planning Policy Framework.

5. None of the polytunnels hereby permitted shall be covered with polythene from 30th November until 31st December in any calendar year nor during the month of January in any calendar year, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the visual impact of the development hereby permitted is limited to the growing periods in accordance with policy LA1 of the Herefordshire Unitary Development Plan 2007 and the requirements of the National Planning Policy Framework.

6. The previously-approved Landscape Management Plan (including long term design objectives, management responsibilities and maintenance schedules for all landscape areas other than privately owned domestic gardens) shall continue to be implemented as approved, in conjunction with the additional measures require by condition 2 above.

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

7. All existing trees and hedgerows upon the land shall be retained unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the development hereby permitted is satisfactorily integrated into the landscape in accordance with policy LA2 of the Herefordshire Unitary Development Plan 2007.

8. The previously-approved Habitat Enhancement and Management Scheme overseen by an appropriately qualified and experienced ecological clerk of works (based on the recommendations for habitats and protected species set out in the Ecological Appraisal received 3.04.2008 - Ref: 1226/ecorpt-1 and received 27th June 2008 - Ref: 1226/ecorpt-2 prepared by Davies Light Associates) shall continue to be implemented as approved in conjunction with the additional measures require by condition 2 above.

Reason: To ensure the protection of all species covered under the Wildlife and Countryside Act 1981, the Conservation (Natural Habitats, & c.) Regulations 1994 (as amended), the Badger Act 1992 and policies NC1, NC5, NC6 and NC7 of the Herefordshire Unitary Development Plan 2007 and the requirements of the National Planning Policy Framework: To ensure that the law is not breached with regard to nesting birds which are protected under the Wildlife and Countryside Act 1981, the Conservation (Natural Habitats, &c.) Regulations 1994 (as amended) and policies NC1, NC5, NC6 and NC7 of the Herefordshire Unitary Development Plan 2007: To comply with Herefordshire council's Unitary Development Plan policies NC8 and NC9 in relation to Nature Conservation and Biodiversity and Geological Conservation and the NERC Act 2006 and the requirements of the National Planning Policy Framework.

9. There shall be no variation to the design or appearance of any polytunnel without the prior written approval of the Local Planning Authority.

Reason: In order to safeguard and maintain the visual amenity of the area and to ensure that the development conforms with Policies DR1, LA1, LA2, LA5, LA6 and HBA4 and the requirements of the National Planning Policy Framework.

10. There shall be no polytunnels sited on land lower than 35.0m AOD, as indicated upon Figure 3 'Flood Elevations' The Homme Supplementary Report dated 26/06/08.



**Reason: To maintain the conveyance of flood flows and to prevent the increased risk of flooding elsewhere to ensure that the development complies with Policy DR4 and the requirements of the National Planning Policy Framework.**

- 11. There shall be no new buildings, structures (including polytunnels, gates, walls and fences) or raised ground levels within 8 metres of the top of bank of the River Wye (Main River), inside or along the boundary of the site, unless agreed otherwise in writing by the Local Planning Authority.**

**Reason: To maintain access to the watercourse for maintenance or improvements in accordance with Policy DR4 and the requirements of the National Planning Policy Framework.**

- 12. Surface Water generated from the site shall be limited to the equivalent Greenfield run-off rate, and continue to be managed as approved, in conjunction with any additional measures submitted under condition 2 and in accordance with the following:**
- Drainage Appraisal [JDIH (Water & Environment) Ltd June 2007]; addendum dated 1 April 2008, Supplementary Report dated 26 June 2008;**
  - Updated Flood Risk Assessment October 2012, Water Resources Risk Assessment June 2012 and update letter dated 12<sup>th</sup> March 2014 [Envireau Water]**
  - The previously-approved Surface Water Regulation scheme, including the use of sustainable drainage systems (SuDS).**

**Reason: To minimise flood risk, optimise water resource use and to protect the River Wye SSSI/SAC, in accordance with Herefordshire Unitary Development Plan Policies S2, DR4, DR7, NC, NC3 and the requirements of the National Planning Policy Framework with particular reference to sections 10 and 11.**

- 13. In the event of the polytunnels hereby permitted becoming redundant for the growing of soft fruit upon the application site, the polytunnels which including the supporting structures shall be permanently removed from application site within a period of twelve months.**

**Reason: To ensure that buildings / structures that are redundant for agricultural purposes do not remain in the landscape unnecessarily.**

#### **INFORMATIVES:**

- 1. It is hereby confirmed that the requirements of conditions 6, 7, 9 and 14 of planning permission reference DCSE2008/0996/F have been met in full and formally discharged prior to the application for a variation under Section 73 of the Town and Country Planning Act 1990 (as amended). This new permission updates and varies the previous conditions. The 2008 permission continues to subsist and the various schemes approved under it shall continue to be implemented as approved except where altered or superseded by this variation. Where relevant and appropriate, these factors have been incorporated into the above new set of conditions, which takes account of instances where all requirements are complete and where additional terms are imposed in light of the variation.**
- 2. The local planning authority has acted positively and proactively in determining this application by identifying technical matters of concern which might affect the determination process and likely outcome, by negotiating and discussing these with the applicant and appointed consultant, and reaching agreement as to correct procedure and any minor amendments found necessary. As a result, the local planning authority has been able to grant planning permission for an acceptable proposal in light of the terms of the previous permission granted in 2008 and in accordance with the**

**presumption in favour of sustainable development as set out within the National Planning Policy Framework.**

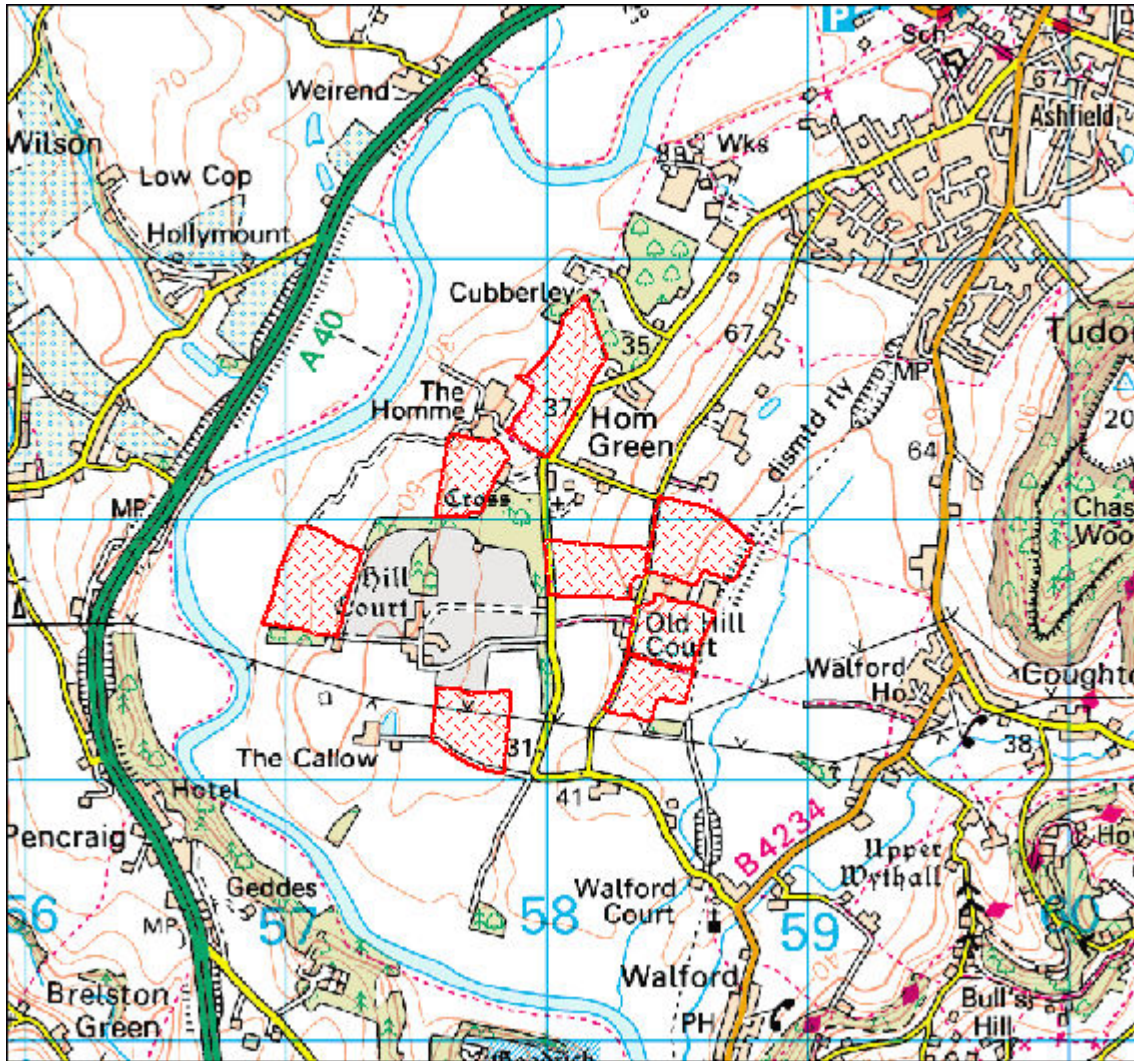
Decision: .....

Notes: .....

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**Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** 140953/F

**SITE ADDRESS :** HOM FARM, HOM GREEN, ROSS-ON-WYE, HEREFORDSHIRE, HR9 7TF

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<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>27 AUGUST 2014</b>
<b>TITLE OF REPORT:</b>	<p><b>P140963/O - SITE FOR THE DEVELOPMENT OF UP TO 135 HOMES (INCLUDING 46 AFFORDABLE HOMES), PUBLIC OPEN SPACE, NEW ACCESS (INCLUDING DEMOLITION OF 144 AYLESTONE HILL), STRUCTURAL LANDSCAPING, SUSTAINABLE DRAINAGE INCLUDING BALANCING PONDS, INFRASTRUCTURE AND ASSOCIATED WORKS: LAND AT 144 AYLESTONE HILL AND LAND TO THE EAST OF AYLESTONE HILL, HEREFORD, HR1 1JJ</b></p> <p><b>For: Bovis Homes Limited per Mr Ben Stephenson, Greyfriars House, Greyfriars Road, Cardiff, CF10 3AL</b></p>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=140963&amp;search=140963">https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=140963&amp;search=140963</a>

**Date Received: 31 March 2014**

**Ward: Aylestone**

**Grid Ref: 352473,241411**

**Expiry Date: 30 June 2014**

Local Members: Councillors NP Nenadich and DBWilcox

## 1. Site Description and Proposal

- 1.1 The application seeks outline planning permission with all matters bar access reserved for the erection of up to 135 dwellings, including 46 affordable homes, on a site of some 7.5ha on the eastern side of Aylestone Hill at the north-eastern edge of Hereford City.
- 1.2 The application site is two fields of pasture outside of, but adjacent to, the settlement boundary as defined by the Unitary Development Plan. Within the site there is a large derelict poultry house and a single internal hedgerow. The site is bordered to the west by the ribbon development, mainly bungalows, extending northwards and terminating with the two-storey dwelling No.144, which forms part of the application site and would be demolished as part of the access proposals.
- 1.3 The site lies within an ancient and historic landscape, used for grazing since the Bronze Age. The Lugg & Hampton Meadows, part of which lies just beyond the site's eastern boundary, is the most important surviving Lammas meadow in the UK. Natural England's website says "*These ancient hay meadows, whose records date back to the time of the Domesday Book, therefore have great ecological and historical significance, and a vital place in our national heritage.*"
- 1.4 The River Lugg (220m east of the site) forms part of the River Wye Special Area of Conservation (SAC) and it is a Site of Special Scientific Interest (SSSI), as are the Lugg and Hampton Meadows (c. 20m east of the site). The Meadows are also a Special Wildlife Site

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

(SWS). Part of the Lugg Rhea, a drainage system for the meadows (adjacent to site's eastern boundary), is part of the SSSI designation, a Site of Importance for Nature Conservation (SINC) and is a habitat for otters (a European Protected Species). The ecology of the Meadows is also significant as a resource for public amenity.

- 1.5 The Lugg Meadows and the associated landscape in which the site is situated are recognised within the Council's Urban Fringe Sensitivity Analysis (UFSA) (January 2010) as an area having high sensitivity and vulnerability to change. The steep, north-east facing slopes of Aylestone Hill are described as being undeveloped and rural in character. The slopes are "... *highly visible and a key element in the setting of Hereford when approaching Hereford across the Lugg Meadow*".
- 1.6 The site is also adjacent to the Aylestone Hill Conservation Area, which lies to the immediate west. The Conservation Area is characterised by late Victorian and Edwardian suburban 'villa and garden' development with large houses set on spacious plots within mature gardens. In the later part of the C20th century the area has been subject to infill development of some of the traditional, larger plots.
- 1.7 Two public rights of way cross the site (HER42 and HER 42A) and link directly to Upper Lugg Meadow which is Registered Common Land, Open Access Land and crossed by public rights of way. There are also onward links to the Three Choirs Way to the south east. Within the site levels descend from the site's south-west corner towards the Lugg Meadows.
- 1.8 The nearest listed buildings are 86 and 88 Aylestone Hill and 20 and 22 Walney Lane. All are located to the south of the application site.
- 1.9 Although submitted in outline, the application is accompanied by a broad range of supporting material, including the following:-
  - Design and Access Statement (Bovis Homes March 2014);
  - Planning Statement; S106 Draft Heads of Terms and Statement of Community Engagement (Barton Willmore);
  - Landscape and Visual Impact Appraisal; Archaeological and Heritage Assessment & Arboricultural Assessment (EDP);
  - Transport Assessment; Supplementary Technical Note and Residential Travel Plan (TPA);
  - Ecological Assessment (Ecology Services);
  - Flood Risk Assessment; Utilities Statement and Phase 1 Ground Condition (Contamination) Assessment (PBA).
- 1.10 The Design and Access Statement (DAS) sets out the aspirations for the development, setting out the intention to respond positively to the landscape setting and the existing settlement pattern. The DAS and other supporting documents recognise the sensitivity of the site from particular public vantage points towards Hereford from the meadows. In this respect the masterplan, which has been reviewed in response to the Conservation Manager's (landscapes) comments, envisages a comparatively low-density scheme, providing significant landscaped areas around the site's perimeter, which would provide continuous Green Infrastructure to the site periphery; a measure of physical separation to the SSSI/SAC and a layout that responds positively to the semi-rural edge of settlement character that persists at present. The DAS sets out the key aspirations of the development, which are summarised as follows:-
  - A layout that responds sensitively to the existing settlement and maximises connectivity to goods, services and amenities in the city centre and more locally;
  - A scheme that is sensitive to the present semi-rural character of the site, particularly in views from the adjacent Lugg Meadows;
  - A scheme that provides a series of landscaped areas that connect to the existing Green Infrastructure network;

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- A scheme that provides new habitats in the form of permanent wetland, seasonal wetland, grasslands and orchards;
- A scheme that delivers a high-quality and attractive environment, setting the standard for the delivery of high-quality, attractive housing within it.

- 1.11 The masterplan also demonstrates a singular point of vehicular access through the site of No.144 at the site's north-western corner close to the existing bus-stop and opposite Aylestone Park. The plan is illustrative only, but demonstrates a layout comprising a mixture of 1, 2, 3, 4 and 5 bed detached, semi-detached and terrace properties. The density is comparatively low in recognition of the edge of city location and the necessity to attenuate surface water within proposed balancing ponds on the lower-lying parts of the site. The net developable area is limited to 4.1ha of the 7.5ha site, the remainder dedicated predominantly to public open space. It is intended that the attenuation basins would form part of the public open space, integral to the Green Infrastructure provision.
- 1.12 The application is made in the context of the Council's housing land supply deficit; acknowledged by the Council's published Housing Land Supply Interim Position Statement (May 2014) – which suggests a housing land supply of between 2.09 and 2.6 years depending upon the method employed to calculate the housing requirement.
- 1.13 A Section 106 draft Heads of Terms has been agreed with the developer and is appended to the report. This specifies contributions towards highway and sustainable transport improvements, public open space and recreation, education, libraries and waste.
- 1.14 The Council has adopted a Screening Opinion confirming that the proposal is not development requiring the submission of an Environmental Statement.

## 2. Policies

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

The following sections are of particular relevance:

Introduction	-	Achieving Sustainable Development
Section 6	-	Delivering a Wide Choice of High Quality Homes
Section 7	-	Requiring Good Design
Section 8	-	Promoting Healthy Communities
Section 11	-	Conserving and Enhancing the Natural Environment

### 2.2 Saved Policies of the Herefordshire Unitary Development Plan 2007 (UDP):

S1	-	Sustainable Development
S2	-	Development Requirements
S3	-	Housing
S7	-	Natural and Historic Heritage
DR1	-	Design
DR3	-	Movement
DR4	-	Environment
DR5	-	Planning Obligations
DR7	-	Flood Risk
E15	-	Protection of greenfield land
H1	-	Hereford and the Market Towns: Settlement Boundaries and Established Residential Areas
H7	-	Housing in the Countryside Outside Settlements
H10	-	Rural Exception Housing

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H13	-	Sustainable Residential Design
H15	-	Density
H16	-	Parking
H19	-	Open Space Requirements
HBA4	-	Setting of Listed Buildings
HBA6	-	New development within conservation areas
HBA7	-	Demolition of unlisted buildings within conservation areas
HBA9	-	Protection of Open Areas and Green Spaces
T6	-	Walking
T8	-	Road hierarchy
LA2	-	Landscape Character and Areas Least Resilient to Change
LA3	-	Setting of Settlements
LA5	-	Protection of Trees, Woodlands and hedgerows
LA6	-	Landscaping Schemes
NC1	-	Biodiversity and Development
NC6	-	Biodiversity Action Plan Priority Habitats and Species
NC7	-	Compensation for Loss of Biodiversity
ARCH3	-	Scheduled Ancient Monuments
ARCH6	-	Recording of Archaeological Remains
CF2	-	Foul drainage

### 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
OS1	-	Requirement for Open Space, Sports and Recreation Facilities
OS2	-	Meeting Open Space, Sports and Recreation Needs
MT1	-	Traffic Management, Highway Safety and Promoting Active Travel
LD1	-	Local Distinctiveness
LD2	-	Landscape and Townscape
LD3	-	Biodiversity and Geodiversity
SD1	-	Sustainable Design and Energy Efficiency
SD3	-	Sustainable Water Management and Water Resources
ID1	-	Infrastructure Delivery

### 2.4 Neighbourhood Planning:

The Neighbourhood Planning function for the area would be fulfilled by the Hereford Area Plan; which is in the very early stages of preparation and attracts no weight for the purpose of determining planning applications.

### 2.5 Other Relevant National and Local Guidance / Material Considerations:

National Planning Practice Guidance (2014)  
Annual Monitoring Report  
Five year housing land supply (2013-2018) Interim position statement  
Urban Fringe Sensitivity Analysis  
Planning for Growth – 2011  
Laying the Foundations – 2011

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



- 2.6 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 relevant.

### 4. Consultation Summary

#### Statutory Consultees

- 4.1 Welsh Water: Holding objection.

#### **SEWERAGE**

We advised the developer as part of our pre-planning service that it would be necessary to undertake a hydraulic modelling assessment to establish whether the foul flows from the proposed development could be accommodated within the public sewer network. The applicants have since progressed with requesting a quotation in for the relevant modelling work to take place. However, we have yet to receive an instruction to undertake the hydraulic modelling assessment of the foul sewer network. In the absence of the outcome of this assessment we are unable to prescribe a suitably worded condition to ensure the provision of any infrastructure improvements that may be required. Accordingly, we have no alternative other than to OBJECT to the proposed development until such time as a hydraulic modelling assessment has been commissioned, and the outcomes of the assessment are known.

#### **WATER SUPPLY**

We advised the developer as part of our pre-planning service that it would be necessary to undertake a hydraulic modelling assessment to establish whether a suitable water supply can be provided as the development is in an area of low water pressure. The applicants have since progressed with requesting a quotation in for the relevant modelling work to take place. However, we have yet to receive an instruction to undertake the hydraulic modelling assessment of the foul sewer network. In the absence of the outcome of this assessment we are unable to prescribe a suitably worded condition to ensure the provision of any infrastructure improvements that may be required. Accordingly, we have no alternative other than to OBJECT to the proposed development until such time as a hydraulic modelling assessment has been commissioned, and the outcomes of the assessment are known.

- 4.2 Environment Agency: No objection.  
4.3 Natural England: No objection, subject to conditions

#### **CONSERVATION OF HABITATS AND SPECIES REGULATIONS 2010 (AS AMENDED) WILDLIFE AND COUNTRYSIDE ACT 1981 (AS AMENDED) River Wye SAC**

The application site is within or in close proximity to a European designated site (also commonly referred to as Natura 2000 sites), and therefore has the potential to affect its interest features. European sites are afforded protection under the Conservation of Habitats and Species Regulations 2010, as amended, (the 'Habitats Regulations'). The application site is in close proximity to the River Wye Special Area of Conservation (SAC) which is a European site. The site is also notified at a national level as the River Lugg Site of Special Scientific Interest (SSSI).

It is understood that this proposed development would manage surface water through sustainable drainage systems and that foul water would be discharged via mains drainage to either the Eign or Rotherwas Sewage Treatment Works (STW), which discharge into the River Wye SAC. Natural England and the Environment Agency have signed a Statement of Intent (SOI) to develop a Nutrient Management Plan (NMP) for the River Wye SAC. The objective of the NMP is to ensure the favourable conservation status of the River Wye SAC before 2027, by providing measures to manage phosphate concentrations within the river to meet the conservation requirements of the site. The SOI provides an interim agreement for development management, and states that development can be accommodated where discharges to mains are within existing consents at the receiving Sewage Treatment Works.

Provided that there is capacity at the STW and in light of the SOI and emerging NMP, Natural England agrees with the conclusion offered in the informal screening provided by the applicant; that there would be no likely significant effect on the River Wye SAC. We welcome the betterment provided through the retrofitting of mains drainage connections to existing properties with septic tanks.

### **River Lugg SSSI and Lugg & Hampton Meadows SSSI**

#### **No objection – with conditions**

This application is in close proximity to the River Lugg Site of Special Scientific Interest (SSSI) and the Lugg & Hampton Meadows SSSI. However, given the nature and scale of this proposal, Natural England is satisfied that there is not likely to be an adverse effect on these sites as a result of the proposal being carried out in strict accordance with the details of the application as submitted. We therefore advise your authority that these SSSIs do not represent a constraint in determining this application. Should the details of this application change, Natural England draws your attention to Section 28(1) of the *Wildlife and Countryside Act 1981* (as amended), requiring your authority to re-consult Natural England.

#### **Conditions**

Natural England advises any planning permission if granted is subject to a condition requiring the submission of a biodiversity enhancement plan, the details of which should be agreed with the Local Planning Authority. This should include details to secure the implementation of mitigation and enhancement measures proposed in the application, including, but not limited to:

- Planting of the gappy hedges across the site
- Space for nesting swallows and bats incorporated into new buildings
- Ponds constructed for the benefit of wildlife

Natural England originally required a condition that the SUDS system should ensure no discharge to adjacent watercourses and ditches. This stance has been reviewed upon receipt of the explanation of the SUDs system as set out at 5.10 below. Natural England is now satisfied that the development, as submitted, will not impact upon the features of special interest for which the River Lugg SSSI and the Lugg & Hampton Meadows SSSI are notified.

### **Green Infrastructure and Biodiversity Enhancements**

The proposed development is within an area that Natural England considers could benefit from enhanced green infrastructure (GI) provision. As such, Natural England would encourage the incorporation of GI into this development. Multi-functional green infrastructure can perform a range of functions including improved flood risk management, provision of accessible green space, climate change adaptation and biodiversity enhancement.

This proposal presents the opportunity to incorporate features into the design which are beneficial to wildlife such as the incorporation of roosting opportunities for bats, the installation of bird nest boxes or the use of native species in the landscape planting. We recommend that

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

should the Council be minded to grant planning permission, measures to enhance the biodiversity of the site are secured from the applicant. This is in accordance with Section 40 of the Natural Environment and Rural Communities Act (2006) which states that 'Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity'. Section 40(3) also states that 'conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat'. Biodiversity 2020: A strategy for England's wildlife and ecosystem services and Making Space for Nature (2010) also provide strong drivers for the inclusion of biodiversity enhancements through the planning process.

#### Internal Council Advice

#### 4.4 Transportation Manager:

The application is supported by a Transport Assessment produced by Transport Planning Associates (TPA) dated March 2014 which assesses the likely impact of the development on the surrounding network. Initial comments were provided on the junction assessments within the document, and a response by way of a Technical Note (dated June 2014) from TPA received with the Barton Wilmore letter dated 17<sup>th</sup> June 2014.

The development proposed is up to 135 dwellings, whereas the Transport Assessment was produced for 150 dwellings, therefore it is considered to provide a robust assessment.

The Transport Assessment indicates in Figure 5.1 a total trip generation of 80 vehicles (56 outbound 24 inbound) in the AM peak and 79 (30 outbound and 49 inbound) in the PM peak. These trip generations are based on a TRICS based assessment of similar sites and are considered reasonable. These vehicle trips are predicted to distribute equally north/south at the site access, producing an estimated additional 28 vehicles towards the City centre in the AM peak on Aylestone Hill.

The junctions that will be greatest affected are the two mini roundabouts at Aylestone Hill/Venns Lane/Folly Lane and Aylestone Hill/Roman Road roundabout. The impact upon those junctions has been included in the Transport Assessment and amended slightly in the Technical Note. This indicates that the Aylestone Hill/Roman Road roundabout does not experience any capacity issues in 2019 with the proposed development in place.

The geometry and interaction of the two roundabout junctions at Venns Lane/Aylestone Hill/Folly Lane makes their analysis complex, but the indications from the assessment are that the junctions are currently close/at theoretical capacity and this situation will deteriorate as a result of the development, should the application be approved, with an increase in queueing on approaches. I would comment that the queue lengths indicated in the documents for Aylestone Hill north of the junctions is less than the overall queueing assessed during my site visits, but I am of the view that the queue indicated was the actual queue for the roundabout approach, and that the vehicle arrival rate experienced regular interruption of the queue further back by the school crossing patrol further south at Overbury Road. This pattern was confirmed during my site visits and also is reflected in the fact that the queue lengths assessed for that approach (A465) listed under Junction 2 in Appendix A of the TA indicate the recorded queue lengths increasing in the periods commencing 8:45, 9:00 and 9:15AM, when the crossing patrol would decrease in regularity and then cease. During my visits, the worst case queue extended to the site entrance location.

The Technical Note indicates in Table 3.3 an increase in queue length of 11 vehicles in the AM peak and 4 vehicles in the PM peak. This equates to an additional 45 seconds queueing time (AM peak) and 30 seconds (PM peak) This is considered to be a worst case scenario, and is based on 150 dwellings rather than the 135 proposed.

The Technical Note in Paragraphs 3.9 and 3.13 suggests that a reduction of 10% in vehicle trips could be achieved by way of effective implementation of the Travel Plan, and that this would reflect the true impact of the development, and is summarised in Table 3.5. The resultant figures indicate a reduction in the additional delays to around 20 seconds in both AM and PM peak hours.

That 10% reduction is not substantiated by supporting evidence and should therefore, in my view, be viewed with caution. Whilst I acknowledge that some reduction may be achieved by way of the Travel Plan, I have based my assessment upon the likely impact without that reduction, but would stress that mitigation of the impact of the development should be achieved by promotion and enhancement of sustainable transport measures and to maximise their use and to minimise vehicular impact as indicated in the Travel Plan.

It is noted that Section 106 contributions and sustainable transport schemes are detailed in the Draft Heads of Terms and these are considered would give benefit in this respect, not just by reducing vehicle trips from the development but by potential modal shift for existing trips on the network.

The access junction layout originally submitted (Drawing Figure 3.1 in the Transport Assessment) did not take account of proposals for an on-road cycle scheme on Aylestone Hill to link to the Park & Share/cycle facility at the park and which is one of a number of schemes around the City intended to reduce journeys into the city by car. A further drawing SK04.A has been produced which shows a scheme which would provide a cycle route through the junction. Visibility from the crossing points on the site access road may be an issue with the submitted design, and may not be the best design achievable.

Further discussions on the junction proposals and a Stage 1 Road Safety Audit, to include a Non- Motorised User audit, will be necessary before a scheme can be approved, but I am of the view that a suitable scheme could be produced within the available highway and controlled land and, whilst access is not a reserved matter, for an access in principle at that location to be approved, subject to finalisation of full details at the reserved matters/full application and S38/278 preparation stage.

## **SUMMARY**

The Transport Assessment and subsequent Technical Note indicate that there will be a worsening of the operation of the junction at Aylestone Hill/Venns Lane/Folly Lane, with resultant additional delay and queueing. This is estimated to be an additional 45 seconds in the morning peak and 30 seconds in the evening peak, with an increase in queue length of 11 and 4 vehicles respectively. My existing journey time assessment indicated a current travel time of around 12 minutes from end of queue to roundabout at worst time. In terms of traffic flows, the development would introduce an additional 28 vehicles towards the city and through these junctions, as compared to a total southbound flow of 583 vehicles, ie around a 5% increase.

Any new development will have an impact and the NPPF in Paragraph 32 states that "development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe". No definition of severe is provided and therefore it is open to individual assessment and interpretation.

Whilst further delay and queueing on the highway network is undesirable from a motorist point of view, it could also be argued that if total mitigation of additional vehicle trip impact is provided by way of additional road capacity, there is less incentive to use sustainable modes. Therefore in my view, mitigation is better achieved by encouragement of sustainable travel modes, not just for the development but for existing car users. I consider that the Travel Plan and the schemes indicated in the Draft Heads of Terms would assist in the reduction of the residual cumulative impact.

With provision and introduction of those mitigation measures listed in the Draft Heads of Terms and introduction and promotion of the Travel Plan, I consider that the residual cumulative impact would not be severe and I would therefore recommend approval subject to conditions.

#### 4.5 Conservation Manager (Landscape)

The LVIA which has been carried out provides a comprehensive assessment of landscape and visual effects, but I do have some concerns about certain aspects of the report.

##### 1. WIDER CONTEXT

The UFSA shows the distinct, irregular pattern of the existing edge of the settlement along the western edge of zone 5b, within which the site lies. Zone 5b forms the highly sensitive transition / buffer zone between the city and the Lugg Meadows (the sensitivity of the latter being accepted by all parties). The LVIA disagrees with the High level of sensitivity of zone 5b, however – see below).

Applying the site boundary to the maps at this scale shows how the site forms a large, rectangular block jutting out from the built up area into the transition zone. I do not consider that the characteristic settlement edge pattern of the zone is respected by creating this block-like extension out of the city into open countryside, rather, it is adversely affected.

##### 2. SENSITIVITY: LANDSCAPE AND VISUAL

Although I agree that the UFSA recommends that more detailed assessments are required to establish the capacity of specific areas for change, I disagree with the LVIA's conclusion that this part of zone is not High sensitivity but Medium. I consider that the value and importance of the transition zone has been underestimated, especially in light of its key protective function between the urban edge and the meadows (see also stated purpose of Conservation Area). In my opinion, both landscape and (many) visual receptors should be High.

In particular, the historic and cultural importance of this landscape, which is of greater than local significance, does not appear to have been given enough weight. The UFSA does highlight the sensitivity of visual amenity and views in this zone, but this does not mean that effects on landscape (especially an historic landscape) are only based on views, as is confirmed in the LVIA methodology. Both the LVIA and the archaeological assessment appear to rely mainly on views and visibility to establish overall effects (including effects on the setting of the Conservation Area), rather than factoring in the many other aspects that contribute to landscape character, and the wider context as set out above.

##### 3. LANDSCAPE VALUE OF SITE

The value of the existing landscape features on the site (old hedgerows which are remnants of the traditional hedgerow pattern) are classified in the LVIA as having low value as they are in poor condition. This is used as a reason for the site's sensitivity to change not being classified as high, as in the UFSA. I accept that the future of these hedges 'may be uncertain' and they could be lost even if development does not go ahead but nonetheless, they are a key landscape characteristic and are of historic landscape value and could potentially be restored. The earlier landscape appraisal carried out by One Ltd, recommended they should be retained and respected within any future layout, but on the illustrative masterplan, they have not been.

#### 4. MAGNITUDE OF IMPACT

I consider that the proposed development is large scale and permanent and that the magnitude of change is large. I agree that the magnitude of impact is potentially low from certain viewpoints, but this relies on screening – see below.

#### 5. VISUAL EFFECTS

I agree that in visual terms, the site benefits from a certain amount of screening which limits its area of visual influence (although not from some of the most sensitive receptors, which could experience significant adverse effects). But I disagree with what is said in the LVIA (*“The creation of new open space and more sharply defined interfaces with residential housing has the potential to enhance the existing view by providing a ‘soft’ urban edge and frontage to the Lugg Meadows.”*). The change of the view from that of a traditional, rural landscape to one of a modern housing estate cannot, in my opinion, be said to be an ‘enhancement’.

In the event that planning permission was granted, however, I do think that if the details of the scheme were very carefully considered, new houses could eventually be relatively well-integrated into the backdrop to the west (see Recommendations below).

However I am concerned about the reliance placed on vegetation in the longer-term for screening in order to mitigate adverse visual (and landscape) effects, and to help assimilate the proposals into the existing townscape, with its distinctive mature ornamental trees. Some of these trees may be reaching the end of their useful lives from a landscape perspective. Some of the planting which currently screens the site from view is off-site and not in the applicant’s ownership, and there is nothing to stop it one day being cut back or removed altogether. Hedges can be severely damaged or lost as a result of vehicular accidents, fires, pests and diseases. The latter also applies to trees, with many species native to the UK being affected in recent years (elm, ash, oak, alder, pine, spruce etc.). I accept that none of this is possible for the applicant to control, but it does mean that one cannot rely 100% on vegetation to screen views in the future.

#### 6. LANDSCAPE EFFECTS

The LVIA states (para. 4.27): *“Further, whilst recognising the close physical proximity and visual relationship between the site and the Lugg Meadows, a distinction should be made between the inherently high value of the Lugg Meadows, with its strong landscape character and undeveloped and natural appearance, and the site which contains features/fabric of lesser interest and thus constitutes a less sensitive landscape character due to its close relationship with Hereford’s urban edge.”* This actually emphasises the problem: as set out above, the zone in which the site lies forms the transition between the built urban edge and the high value Lugg Meadows. The proposals will result in the complete loss of the function of this important area.

In addition, it is possible that increased footfall in the Lugg Meadows could adversely affect these sensitive habitats, and an increase in predatory pets such as cats could also affect local wildlife. When habitats become damaged and eroded, there is a subsequent adverse effect on landscape character and visual amenity.

The LVIA asserts that *“the magnitude of change arising from the tree/hedgerow loss on site landscape fabric would be low, on a receptor of low sensitivity/value, leading to a minor/negligible overall effect.”* I consider that the hedgerow loss would result in at least a medium magnitude of change on a high sensitivity receptor (i.e. not taking the site in isolation but as an integral part of both the local and wider landscape), and that the overall significance of effects would therefore be higher. I do not agree that *“The level of effect associated with this change would be mitigated by maintaining areas of open space throughout the development.”*

The LVIA concludes that “*On balance, it is considered that the magnitude of change to local landscape character would be medium, leading to a moderate/minor overall level of effect. There would be negative effects associated with the loss of pasture and reduction in the open and semi-rural character of the land. However, the landscape pattern, fabric and visual relationship with the Lugg Meadows and Aylestone Hill ridge would not be fundamentally changed.*”

I have set out above why I consider that the overall significance of effects is likely to be higher than predicted. I do not think that the level of change can be mitigated.

## 7. GREEN INFRASTRUCTURE

The proposals are likely to give rise to adverse effects on both local and wider Green Infrastructure. Two public rights of way cross the site and users of these would experience a significant direct and permanent adverse effect through the change in the landscape from open fields with fine views, to a modern housing estate. These footpaths link directly to Upper Lugg Meadow which is Registered Common Land, Open Access Land and crossed by public rights of way. There are also onward links to the Three Choirs Way to the south east. The UFSA notes that the ‘*dense network of footpaths [across the Lugg Meadow SSSI] contributes both to the amenity value and to the historic landscape character of the area.*’ The proposals would significantly adversely affect the amenity (including visual amenity) of this resource and the enjoyment of those who use it for the reasons set out above.

## 8. CONCLUSIONS

In my opinion, the importance of the site, its function, value as a resource and its sensitivity have been underestimated, and the significance of effects is likely to be higher than predicted.

For the reasons set out above, I consider that the proposed development would be contrary to saved UDP policies LA2, LA3, S7, and DR1 and planning permission should be refused.

## 9. RECOMMENDATIONS

Should planning permission be granted, however, the layout should be re-thought. It should better respect both the local and wider settlement pattern and vernacular, and provide more robust buffers between houses / gardens and the Lugg Meadows.

It should demonstrate that adverse effects on the amenity of footpath users can be adequately mitigated. The scheme should be based on a localised appraisal of characteristics (including plant species and habitats) so that the final outcome successfully addresses the site’s interfaces with / function as a) the ancient and natural Lugg Meadows landscape, b) the local Victorian landscape characteristics, c) the north-eastern gateway to Hereford and d) the Conservation Area / residential edge.

Particular attention should be paid to detail especially colours and materials. New built development needs to integrate with its setting, so for example, a mosaic of colours and textures, with a similar palette that which exists, is likely to be better assimilated into the existing settlement when viewed from the north to south east.

### **Additional Comments in response to the revised masterplan:**

These comments are provided as an update to my previous comments (18<sup>th</sup> May 2014) in the light of additional information subsequently provided by the applicant. This was as a result of a meeting between the parties to discuss landscape issues, *inter alia*.

The increased landscape buffer to the south does result in a small improvement to the previous layout. I agree that the aerial montage shows that the development’s edge is representative of

the irregular settlement edge to the south east, but in my opinion it still represents an inappropriate intrusion into the transition zone, and my previous comments still apply.

#### 4.6 Conservation Manager (Ecology): No objection subject to conditions

The Hydrological Assessment for ground water defined by the underlying geology places the risk of pollutants to localised and site wide ecology to be Moderate-Low and Low respectively both currently and post-development. I am content that the additional measures to be adopted for management of surface waters and flood are technologically sound, sustainable and will not affect the ecology of the SSSI either through storm events or outfall to the Lugg Rhea Brook. Both the Internal Drainage Boards and the Environment Agency are happy that these issues have been adequately addressed.

The design of the site with plantings and grassland will act as bioretentive filtration for run-off. Establishment of wetland 'basins' as attenuation areas for surface drainage within the sub-catchments will give attenuation of excess flows with the cleansed outfall at the flood prone north-eastern sector of the site. The potential ecological impact of polluted/eutrophic waters on the SSSI should be minimal. The 'treatment train' for surface water flow within the SuDS system incorporates filtration trenches, attenuation ponds, swales for erosion and flow controls. Additionally, pollutant sequestering will be tackled further through the use of silt and oil interceptors prior to outfall into the Lugg Rhea. Whilst the Council does not yet have a SuDS strategy the Parks, Countryside and Recreation comments will apply that developers are advised to use

*" ....CIRA guidance but with reference to DEFRA's draft of the revised SuDS guidance (currently being finalised) and to reference other useful SUDs and wildlife guidance from the Wildfowl & Wetland/RSPB available from the susdrain website".*

The Construction Environmental Management Plan would also ensure that drainage issues are attended to during construction.

The 60% estimate of increased run-off resulting from development together with the allowance made for climate change adds confidence that this development will not significantly aggravate hydrological problems. It is my view that loss of permanent pasture in this location will have minimal impact on the water relations of the site and the SSSI. The current 'natural' drainage from agricultural fields takes with it eroded regolith and soil organic content whilst the filtrate from septic tank soak-aways makes its way to the land drains currently flow to the Lugg Rhea Brook in a relatively unregulated fashion (albeit naturally filtered). With redirection of foul drainage to the mains (subject to Welsh Water agreement) and regulatory technology installed for controlling surface water, site hydrology and water quality might be expected to improve substantially.

From my visit to the site it was clear that these fields have been botanically compromised by an intensified farming regime. Previous farming activities have had a deleterious effect on the biodiversity of the sward in both areas. The sward has been substantially degraded and the botanical worth of these two fields reduced to a very species poor plant community dominated by ruderals and rye grass in most areas. Additional surveys requested from the applicant have since confirmed these findings and the potential for reinstatement as unimproved grassland severely undermined. Extensive stands of nettles reflect the enriched status of the site around the old poultry shed whilst other agricultural ruderals are frequent across much of the site.

My view of this is that there would have to be substantive measures taken to re-establish flower-rich sward on this site in the absence of development. Some flowering herbs such as bird's foot trefoil and meadow vetchling occur but survive only in areas of nutrient impoverishment on subsoil thrown up from excavation in installation of the recent main sewage pipe on the west of the site. Under current agricultural management there would appear to be little opportunity for



the floral biodiversity of these fields to be upgraded by the owner as a complementary buffer to the Lugg Meadows. Biodiversity enhancement for the grassland features on the site is an intention highlighted in the Design Statement. This should bolster the ecology of the areas between the residential housing and the SSSI as well as within the site's green infrastructure. Improvement of hedge structure through planting proposals and the maintenance of the 'wild edge' to the development further improve ecological continuity at this location.

No additional access is to be provided to the SSSI which is under Open Access. Although increased usage of the SSSI for walking and experiencing the natural world may occur as a result of this development, impacts upon the SSSI are not envisaged to be catastrophic. On the contrary, persuading more people to visit such sites is to be encouraged to educate and inform.

In conclusion I do not believe that there are ecological barriers either on the site or its proximity to the SSSI sufficient to object to this development on biodiversity grounds. It is for other advisors to comment upon the singular impacts of this development on cultural heritage and landscape impacts.

- 4.7 Conservation Manager (Building conservation): The proposed outline scheme for housing to the east of Aylestone Hill, Hereford is located partly adjacent to the eastern boundary of the Aylestone Hill Conservation Area (designated in 1969). As a result the proposal must be assessed in relation to Policy HBA6 (8) of the UDP which addresses views into and out of conservation areas.

The proposed access to the housing would run through the site of 144, Aylestone Hill following its demolition. This is a detached dwelling within the conservation area. This aspect of the scheme must be considered against policies HBA6 and HBA7 (demolition of unlisted buildings within conservation areas)

There are no nationally listed buildings on or adjacent to the site but there are a number that are within the wider locality. The closest listed buildings are all grade II and are 86 and 88 Aylestone Hill, located to the south west of the site, just to the north of Walney Lane, with 20 and 22 Walney Lane located due south. The setting of listed buildings is addressed in Policy HBA4.

Taken in reverse order, it is considered that the setting of the various listed buildings of Aylestone Hill and Walney Lane will not be affected by the proposed development. The degree of landscaping and the topography between the site and the listed buildings means that there is no direct relationship between them. The setting of the buildings on Aylestone Hill is one of villas set in spacious grounds but already surrounded by more modern development. The setting of the buildings on Walney Lane is more rural but there are still buildings between the site and the listed building. There are no long views either towards or away from the listed buildings that would encompass the site and the buildings, though it would be possible to see the site and the landscape surrounding the general area of the listed buildings. However it is not considered that there is any conflict between the scheme site and these heritage assets.

The provision of the proposed vehicular access from Aylestone Hill would require the demolition of 144, Aylestone Hill. Policy HBA7 allows for demolition provided that there is an appropriate redevelopment scheme for the site; that the building in question does not make a positive contribution to the conservation area; that the structural condition is such that the cost of repair outweighs the importance of its retention.

In this case the building is a detached dwelling dating from the 1930s and of a typical suburban design for the period. Although it is within the conservation area it is not considered to make a particularly positive contribution to the character and appearance. Provided that a scheme can be put forward that is acceptable in terms of compliance with HBA6 then there is considered scope for allowing the demolition of this property. The third criterion relating to the structural

condition of the property is not necessarily relevant where it can be agreed that the building does not make a positive contribution.

In terms of the impact on the above-ground historic environment of the proposed scheme, it is considered that it is the relationship between the conservation area and the site carries the greatest weight in this instance. The site borders the conservation area for about two-thirds of the length of its west side, involves the construction of a new access road. The new access road and the consequent loss of the 1930s detached property is not considered to be detrimental to the conservation area, particularly as the same style of property would become visible. Upon approaching Hereford from the north the scheme would represent an increase in the depth of built environment to the east of the road but it would not affect the character of the road or roadside development. There would be views of the new development between the existing housing but this would in fact just mimic the existing situation further to the south and still within the conservation area. This will be most noticeable at the northern end due to the shallower plots of the 1930s row.

It is considered therefore that the views within the conservation area would be slightly altered with the proposed housing behind the existing but that the general character and appearance would not be altered. The views for footpaths in the vicinity would clearly be altered but, again, there is already a buffer zone further to the south of new development between the fields and the conservation area. This is also the case for the longer views towards the conservation area and Aylestone Hill more generally. It is acknowledged that there would be a change but it is not considered in this instance to be detrimental to the overall landscape, particularly not in historic environment terms. It is considered that the site could comply with HBA6 (8) as long as a sufficiently sensitive scheme is brought forward at Reserved Matters stage.

Overall it is considered that a scheme of appropriate quality could be accommodated on this site without detriment to the listed buildings in the area or the conservation area of Aylestone Hill. It is considered that it could comply with HBA4, HBA6 and HBA7.

#### 4.8 Conservation Manager (Archaeology): No objection

There is no direct evidence for any heritage assets being present on the site, and little *prima facie* case for the site having the potential to include significant, currently unrecorded below ground heritage assets. Having reviewed the correspondence, I have concluded that sufficient information has now been made available, and that no further details (e.g. field evaluation reports etc.) are actually needed.

As indeed is acknowledged in Section S13 of the applicants report, there remains however a risk of lesser findings of local/regional importance, and a commensurate need for archaeological mitigation via planning condition. In order to be compliant with the NPPF Para 141, I would advise the attachment of standard archaeological condition E01/C47 to any permission granted.

#### 4.9 Parks and Countryside

In accordance with UDP Policy H19 developments of more than sixty dwellings are required to provide a children's play area for all ages, infants, juniors and teenagers and outdoors sports provision.

In accordance with UDP Policy RST3 the open space requirement consists of:

- 0.8 ha children's play per 1000 population
- 1.6 ha outdoor sports per 1000 population
- 0.4 ha POS per 1000 population

In accordance with the NPPF, provision of what open space, sports and recreational opportunities required in a local area should be based on robust assessments of need. The POS requirements for this site (both on and off-site) should therefore be determined in accordance with the Open Space Study undertaken for PPG17 (2006) and the Play Facilities Study and Action Plans (2012) and the Playing Pitch Assessment for the Hereford Area (2012).

Using the above standards of provision and based on a development of 150 houses and a population of 330 (150 x 2.2) we would require the following amounts, however this would be a combination of both on and off site contributions to meet the needs identified in the studies:

- 0.26ha (2640 sq m) children's play space to include kick-about, formal and informal provision
- 0.13 ha (1320 sq m) POS
- 0.52 ha (5200 sq m) outdoor sport

### **On site Provision:**

Children's Play Space/POS: To meet the requirements of the NPFA provision and thresholds for access standards and in accordance with the Play Facilities Study and Investment Plans we would require provision to be on-site as there is no opportunity to use an off-site contribution. We would want any provision to complement the neighbourhood play area being developed at Aylestone Park across the road (which is the only play facility in the vicinity). It should therefore be primarily aimed at younger children to avoid the need to cross a busy road and with provision for a kick-about for older children. This approach would improve the local offer and complement that being developed at Aylestone Park.

On a development of this size would expect to see a combination of one larger central play area, space for a kick about area and opportunities for informal recreation. This could combine semi natural open space which can be used for informal recreation, wildlife corridors and biodiversity if designed appropriately. All design of green infrastructure should be cohesive and integrated.

POS/SUDS areas: On a development of this size it is likely that there will be balancing pond/SUDs areas. If these are required they can be included as additional areas of semi natural POS and if designed appropriately to take account of health and safety issues of standing water they can provide both valuable areas for wildlife, biodiversity and informal recreation opportunities.

### **Off-site provision:**

Outdoor sports (Pitch requirements): To meet the findings of the Playing Pitch Assessment for Hereford an investment plan is being produced which will include projects to improve and increase provision where identified. This will include the need to provide opportunities to meet deficiencies identified in football around dedicated junior pitches (5 v 5, 7 v 7 and 9 v 9) to meet with Football Association standards and facilities for training. Aylestone Park is identified as a facility to be developed as a dedicated junior football facility with training facilities including an artificial turf pitch and investment is required. An off site contribution would therefore be appropriate and would be calculated using the SPD on planning obligations based on market housing only as follows:

1 bed - £878      2 bed - £1066      3 bed - £1442      4+ bed - £1756

### **Sport England Contribution: SPD on Planning Obligations:**

In accordance with the SPD on Planning Obligations a Sport England contribution is asked for from all residential development of over 10. This is in response to the pressure the increased

population arising from the development will bring to an aging stock of sports facilities. In accordance with the SPD on Planning Obligations, the off-site contribution is calculated on the market housing only depending on the final agreed mix. Using Sport England's facilities calculator methodology, we would require the following:

1 bed - £408 2 bed - £496 3 bed - £672 4+ bed - £818

This would be used on priorities identified Indoor Facilities provision in Hereford including the Swimming pool and Leisure facilities and accordance with priorities at the time.

#### 4.10 Schools Capital and Investment:

There is capacity at the catchment primary and secondary schools, although the non-catchment based Roman Catholic primary and secondary schools (St. Francis Xavier and St. Marys High School) are at capacity. A contribution that is proportionate to the number of children across the country attending Roman Catholic schools i.e. 5% at primary and 8% at secondary, is thus sought.

#### 4.11 Public Rights of Way: No objection.

### 5. Representations

5.1 Hereford City Council: Objection. Whilst the City Council are supportive of much needed housing developments we do not think that this particular site is suitable for such big development. The density of the proposal is out of keeping with the area and current traffic situation on the Aylestone Hill creates some anxieties about additional traffic burden this development would put on the area.

5.2 21 individual letters of objection have been received, alongside two petitions – one with 114 signatories, the other with 16. The content is summarised as follows:-

- The site is an important buffer between the edge of Hereford and the nationally significant Lugg & Hampton Meadows SSSI and the River Lugg SAC. Important greenfield sites such as this should not be developed in advance of brownfield alternatives irrespective of the Council's apparent lack of housing land;
- Although outside the SSSI, the site shares many parallels in terms of its flora, with the meadows;
- In times of flood the site is a refuge for fauna normally associated with the meadows and has provided habitat for nesting birds. Otters have been seen on the site and nearby. Additional residential development in this location will destroy this habitat and threaten this bio-diversity;
- The scale of the development is contrary to the settlement pattern locally and detrimental to the setting of the Aylestone Hill Conservation Area. Existing in-fill development has generally been sensitive and not visually prominent. This site is simply too large to integrate successfully;
- The submitted Landscape and Visual Impact Appraisal underplays the significance of the visual impact when viewed from the approach into Hereford;
- The development will urbanise one of the few remaining rural walks on Hereford's periphery. Even accepting the need for more housing, there must be sites that can be developed in preference to this sensitive site?
- The site is prone to waterlogging and immediately adjacent an area at high risk of flooding. It would be irresponsible, in the light of this and other high-profile events nationally, to grant permission for dwellings that may flood and/or struggle to obtain insurance;
- There is scepticism that the development could manage surface and land drainage run-off at better than greenfield run-off rates;

- The development, if permitted, could act as a precursor to other future incursions towards the Lugg Meadows;
- Existing dwellings suffer from low water pressure. There is no planned improvement to the infrastructure. The development would exacerbate the problem;
- The existing sewerage system cannot accommodate the additional demand;
- There are private soak-aways draining within the application site. How will these be accommodated?
- The development will result in loss of privacy to existing dwellings on Aylestone Hill;
- Has the potential impact on heritage assets, including nearby listed buildings, been properly considered?
- Any approval would be contrary to the Council's long-held protection of the area as an important element of the city's setting when approached via the Worcester Road;
- Any site visit during the term-time AM peak will reveal queuing traffic down to the proposed junction and possibly as far as the A4103 roundabout. The addition of 135 houses' worth of traffic will obviously add to the congestion;
- The vehicular access requires the demolition of a serviceable and well-established dwelling and is likely to conflict with cycle-lane improvements.

5.3 Hereford Nature Trust: Objection. A summary of the objection is set out below:-

The Lugg and Hampton Meadows SSSI is rich lowland neutral grassland with significant populations of rare plants. There has been significant loss of lowland meadow in the UK and they are now a priority habitat in the UK Biodiversity Action Plan. The extent of the SSSI is not correctly identified in the ecology report submitted in support of the application. The Lugg Rhea (tributary of the River Lugg) is also part of the SSSI and situated very close to the site's eastern boundary.

The Trust has serious concerns relating to potential adverse impacts on protected sites, the inaccurate ecological assessment, potential for pollution, loss of permanent pasture, development in a flood zone and outside the settlement boundary in respect of this planning application. The application area lies adjacent to The Lugg and Hampton Meadows SSSI, which incorporates part of and lies within the floodplain of the river Lugg SSSI. The River Lugg itself is part of the River Wye/Afon Gwy Special Area of Conservation Interest which is protected for habitats and species which are dependent on high water quality. The site, as one prone to waterlogging/flooding is not suitable for the use of a Sustainable Urban Drainage system.

The Trust considers that the ecological assessments provided by the applicant fail to demonstrate that there will be no adverse impact on the SSSI, SAC and protected species. On this basis we consider that granting of planning consent would be contrary to the policies set in the National Planning Policy Framework, the saved policies from the Herefordshire UDP and the developing policies in the draft Core Strategy. The proposed development is located within Flood Zone 1 and as such NPPF policy requires a Flood Risk Assessment to be carried out.

On this basis, HNT objects to this development and strongly urges the Council to refuse outline consent.

5.4 Plantlife: Objection (Plantlife part owns the Lugg Meadows and has been managing the land as a nature reserve for over 18 years). A summary of the objection is set out below:-

- The application site is in very close proximity to a SSSI. Plantlife takes issue with the Ecological Assessment, which says that the "SSSIs (Meadows and River Lugg) are well removed from the site boundary". The eastern boundary is only 20 metres from the Lugg and Hampton Meadows SSSI;
- Rather than forming a barrier, the Lugg Rhea forms part of the SSSI;
- Surface water run-off has potential to impact the Lugg Meadows. Failure to properly maintain the SUDs system could result in pollution of the Lugg Rhea and consequently the River Lugg SSSI/SAC. Water quality is vital to the maintenance of protected species;

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

- Additional pressure will be brought to bear on the meadows. Dog walking and fouling will almost inevitably increase. Although responsible enjoyment of the meadows is encouraged, problems already result from vandalism;
- The ecological assessment is unclear as to how the “significant” benefits contributing towards the achievement of Biodiversity Action Plan targets will be achieved;
- The ecological assessment concludes that the proposed development will be an improvement relative to the “intensive” agricultural use of the site historically. The “intensity” of use and consequent nutrient run-off towards the Lugg Rhea is questioned. The site has not been ploughed in recent memory, nor are there any applications of fertiliser;
- A large-scale housing development on the edge of the city will detract from a landscape of historic importance;
- The ecological assessment is inaccurate as regards the identification of the full extent of the Lugg Meadow SSSI;
- The ecological value of the site is underplayed.

## 5.5 Woolhope Naturalists' Field Club

On behalf of the President and Central Committee of the Woolhope Naturalists Field Club I would like to express our opposition to this development.

Apart from the obvious issues of flooding, disposal of sewerage, water supply and traffic, which provide a host of intractable problems, glossed over by the applicant in their submission, the Club would like to reiterate some of the landscape, environmental and cultural issues more pertinent to our interests.

The land under consideration belonged to the cathedral at Hereford and was probably acquired in the 8<sup>th</sup> century. It appears in Domesday book as part of the manor of Tupsley and by the mid-12<sup>th</sup> century had become a discrete holding called Waleneya - from the Old English waellan~eg - 'island of the spring' indicating that most of the land lay on an island between the River Lugg and the stream called Lugg Rhea. It contained a mixture of pasture - the development site - and shared the commonage of the meadows - the Lammas lands - between the rivers, with the king's tenants at Lugwardine. Acknowledging the scarcity of unimproved water meadows the area was recently declared an SSSI.'

A large part of the meadows and the adjoining slopes of the Aylestone ridge now belong to the Herefordshire Nature Trust with public access virtually unrestricted between the road to Ledbury (A438) and the road to Worcester (A465). Indeed, the meadows are criss-crossed by public footpaths, fed into the landscape from the Aylestone ridge. The area is locally recognised as an Open Green Space. A satellite nature reserve has been created on the site of the ancient woodlands at Baynton Wood - the Broadlands Nature Reserve -which has a specific educational role, being adjacent to two schools and a Sixth Form College.

The land under consideration for development forms an integral part of this package of environmentally sensitive lands and acts as a buffer between the straggling Aylestone suburb and the SSSI. Since 1969 Aylestone Hill has been designated a Conservation Area to strengthen the defences of the Lugg Meadows and to protect the northern approaches to the city of Hereford, which is much enhanced by the mature planting found in the large gardens of the Victorian and Edwardian villas on the ridge. On the western slopes of the hill a new public park - Victoria Park - is in the process of being established, which already acts as a counterpoise to the more natural landscape on the eastern side of the road. Parents and children satiated by swings and seesaws are seen crossing the road for a walk across the development site for a visit to the meadows. A walk through a housing estate will destroy this connection.

The SSSI, the Conservation Area, the Nature Reserve and the Victoria Park combine to create one of the most important heritage assets in Hereford, which is underpinned by both central and

local government legislation. In particular, the National Planning Policy Framework taken in conjunction with the English Heritage Revision Note on the Setting of Heritage Assets (2012) has much to say on incongruous development proposals. Equally pertinent is Understanding Place: Conservation Area designations, Appraisal and Management (English Heritage, 2011).

Locally, there are several saved policies from the old Hereford Local Plan which affect the context of the development, together with the 'emerging' UDP policies relating to heritage assets and the setting of conservation areas. Similarly, the Herefordshire Green Infrastructure Strategy (2010) defends the green corridor linking the northern edge of the city with the Lugg Meadows and deals with other matters relating to the general setting of Hereford. More specifically, the Council has a Design and Access Statement relating to the Aylestone Conservation Area (February, 2013) plus an earlier planning guide for this site, drawn up by Hereford City Council (1998) following an earlier proposal to develop this land.

Herefordshire Council is thus well-armed to squash this application but the issues need to be tested in public before a planning inspector. We urge the Council to reject this application and prepare its case for a planning inquiry. The case for an eastern by-pass, crossing the Lugg Meadows, was dismissed at a public inquiry in 1992 on much weaker grounds and we are confident that this development will suffer a similar fate.

5.6 Hereford Civic Society: Objection. A summary of the points raised is set out below.

- The development would be a large cul-de-sac with a singular point of entry.
- The development would include re-working of standard Bovis house-types. A site such as this demands original and innovative design commensurate with Hereford's unique vernacular;
- The development will degrade the landscape;
- The development will cause additional traffic congestion.

5.7 Campaign to Protect Rural England: Objection. A summary of the points raised is set out below.

- The site is in the open countryside and the development is thus contrary to UDP housing policies and saved policy E15 (protection of greenfield land);
- The proposal is contrary to saved UDP policy LA3;
- The proposal would be visually intrusive from the Lugg Meadows and River Lugg SSSI, which forms part of the River Wye SAC;
- The proposal would significantly detract from the amenity of the public rights of way network in the locality;
- The proposal has parallels with the Home Farm case, where despite the acknowledged lack of housing land supply the Inspector dismissed the appeal, citing impact upon landscape and heritage assets as demonstrably and significantly outweighing the benefits of the scheme;
- It is concluded that the scheme is not representative of sustainable development and that the positive presumption enshrined in the NPPF should not be applied.

5.8 Ramblers Society: No objection. Care should be taken to ensure that the surfacing materials for the public rights of way traversing the site are appropriate to the context and not tarmacked. The developer should be aware of the legal obligation to ensure that public rights of way remain clear of obstruction at all times.

5.9 River Lugg Internal Drainage Board. No objection subject to conditions. The River Lugg IDB has no objection but confirms that consent will be required for the discharge of any additional surface water run-off into the adjacent watercourse and that a buffer strip for maintenance will also be required.

## 5.10 Applicant's response to concerns in relation to the use of Sustainable Drainage (SuDS)

The applicant has provided a response to the concerns expressed in relation to the use of the proposed SuDS scheme as a means of attenuating surface water run-off. This is summarised below:-

The overall philosophy of Sustainable Drainage Systems (SuDS) is to replicate, as closely as possible, the natural drainage processes of a site prior to development and can help to mitigate the adverse effects of urban storm water run-off on the environment. SuDS provide the ability to control surface water flows but also improve water quality, ecology and amenity within the development.

Existing site.

The existing site is currently open grass field. The soil is predominantly impermeable meaning the site is often waterlogged with standing water noted at low points and excess water flowing from the site into the Lugg Rea.

Septic tanks from the properties to the north of the site discharge into a soakaway located within the field. Due to the impermeable nature of the ground, during heavy rainfall the soakaway capacity is often exceeded resulting in polluted water running into the Lugg Rea.

Proposed Development - Drainage Scheme

In determining the solution for the disposal of surface water at the site, planning policy dictates that priority should be given to:

- the use of infiltration drainage systems; over
- discharge to watercourses; and then
- discharge to sewers.

Due to the limited infiltration potential, the next preferred discharge connection for surface water is to the local watercourse. The north-eastern corner of the site is the lowest point which lies directly adjacent to the Lugg Rea therefore it is proposed that the surface water drainage will discharge into the Lugg Rea at this location.

The proposal to manage surface water drainage for the development includes a variety of SuDS techniques within the network. The benefits of a SuDS network can be summarised as follows:

- Reduce surface water runoff rates thus reducing the risk of flooding downstream.
- Reduce surface water runoff volumes.
- Encourage groundwater recharge.
- Reduce pollutant concentrations.
- Act as a buffer for accidental polluting spills.
- Reduce volumes of water entering combined sewer systems.
- Contribute to enhancing amenity and aesthetic value of development.
- Provide habitats for wildlife in urban areas and opportunities for biodiversity enhancement.

The surface water management strategy has been developed using best practice SuDS techniques. In the absence of the anticipated 'National SuDS Standards', guidance on the suitable techniques and methods has been obtained from the EA, the Herefordshire SFRA and The SuDS Manual (CIRIA C697, 2007) among other sources.

Planning policy dictates that post-development runoff rates should, as a minimum, be limited to match pre-developed Greenfield rates for all return periods up to the 100 year (1% AEP) event. A 30% allowance for predicted climate change should also be included for residential development based on a 100 year design life horizon. In order to facilitate the controlled runoff there is a requirement for the provision of attenuation storage with flow control devices installed

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



on the outfall structures. Post development discharge rates and volume will match pre development rates as per planning policy and as set out within section 5.5 of the Flood Risk Assessment (FRA).

Therefore, in summary, the proposed development utilises the best technologies available in terms of sustainable drainage which will result in the following:

- Discharging surface water using the most appropriate technique within the SuDS hierarchy that is available for this site;
- Removing existing septic tanks, which currently ultimately overflow into the Lugg Rea, thereby offering betterment;
- Maintaining post development run-off rates to pre-development greenfield run-off rates and volumes, in accordance with planning policy;
- Provide habitats for wildlife within SuDS ponds, integrated into the development,

Finally, the Council's Ecologist, the River Lugg Internal Drainage Board and the Environment Agency have all returned consultation responses which raise no objections to the proposed development in this regard; indeed the Council's Ecologist considers that the proposed development will result in a biodiversity gain over and above the present situation.

Consequently, it is considered that the SuDS proposed within the current scheme complies with extant planning policy and improves the existing situation, most notably in terms of removing the existing septic tanks which, ultimately, currently discharge into the Lugg Rea.

#### 5.11 Applicant's updated assessment of the site's existing grassland value:

In response to representations relating to the loss of biodiverse grassland, the applicant has conducted an updated ecological assessment of the application site.

The assessment concluded that grassland of conservation value would contain a much more diverse range of plants than those present at the time of survey. The report identified that the absence of common grassland plants such as Common Knapweed, Common Cat's-ear, Eyebright, Rough Hawkbit, Yellow Rattle, St. John's-worts, Vetches and Sedges is typical of intensively managed grassland. Notable species such as Corky-fruited Water-dropwort, Tubular Water-dropwort, Mousetail and Fritillary that are present in the nearby Lugg Meadows are all absent from the field.

It is concluded that grassland with even a modest ecological interest would have a conspicuous and colourful range of flowering plants at the beginning of June. The almost complete absence of wild flowers and the limited assemblage of common grasses indicate that the field is of no significant ecological interest.

At best, the localised clumps of Bird's-foot Trefoil and Meadow Vetchling are of some value, but only in the context of the site itself.

The report concluded that the proposed ecological enhancements include the creation of wildflower grassland; this would result in an increase in grassland biodiversity at the site.

#### 5.12 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

- 6.1 The application is made in outline with all matters bar access reserved and involves the erection of up to 135 dwellings on land on the north side of Aylestone Hill with associated access, landscaping and associated works. The site lies to the rear (east) of the ribbon development lining the east side of the road on the descent towards the roundabout with the Worcester Road (junction of the A465/4103). The site is outside but adjacent the settlement boundary for Hereford City as defined by the Unitary Development Plan and located between the Aylestone Hill Conservation Area to the west and the nationally designated Lugg and Hampton Meadows SSSI a short distance to the east. The application acknowledges the sensitivity of the site and consequently takes a sensitive approach to development in recognition of the landscape quality but is predicated ultimately on the Council's lack of housing land supply.
- 6.2 Taking the characteristics of the site into account the main issue is whether, having regard to the supply of housing land, the proposals would give rise to adverse impacts, having particular regard to the likely effects upon the character and appearance of the area, nature conservation interests in the form of the two SSSIs nearby, that would significantly and demonstrably outweigh the benefits of the development so as not to contribute to the achievement of sustainable development.

### ***Planning Policy***

- 6.3 S38 (6) of the Planning and Compulsory Purchase Act 2004 states as follows:  
*"If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."*
- 6.4 In this instance the Development Plan for the area is the Herefordshire Unitary Development Plan 2007(UDP). The plan 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. 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 within the Plan, Hereford, as the main population centre, remains the principal focus for housing and related growth over the plan period (2011-2031).
- 6.5 The two-stage process set out at S38 (6) requires, for the purpose of any determination, assessment of material considerations. In this instance, and in the context of the housing land supply deficit, the NPPF is the most significant material consideration for the purpose of decision-taking. NPPF Paragraph 215 has the effect of superseding UDP policies 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 over the UDP housing supply policies and the presumption in favour of approval as set out at NPPF paragraph 14 is engaged *if* development can be shown to be *sustainable*.
- 6.6 NPPF Paragraph 14 states that for decision making, the presumption in favour of sustainable development means:
- *"Approving development proposals that accord with the development plan without delay;&*
  - *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."

- 6.7 In the context of the UDP and housing land supply it is the second bullet point and the weighing of positive and negative impacts that is relevant in this case. The decision-taker must decide therefore, whether the development before them is representative of sustainable development having regard to the NPPF as a whole, if the positive presumption is to be engaged. Although not expressly defined, the NPPF refers to the three dimensions of sustainable development as being the economic, environmental and social dimensions. The NPPF thus establishes the need for the planning system to perform a number of roles including, *inter alia*, providing the supply of housing required to meet the needs of present and future generations and by creating a high quality built environment.
- 6.8 The economic dimension encompasses the need to ensure that sufficient land is available in the right places at the right time in order to deliver sustainable economic growth. This includes the supply of housing land. The social dimension also refers to the need to ensure an appropriate supply of housing to meet present and future needs and this scheme contributes towards this requirement with a mix of open market and affordable units of various sizes. Fulfilment of the environmental role requires the protection and enhancement of our natural, built and historic environment; and, as part of this, helping to improve biodiversity.
- 6.9 In this instance officers consider that in terms of access to goods, services and employment opportunities the site is sustainably located, whereas the delivery of 135 dwellings, including 35% affordable, would contribute towards fulfilment of the economic and social roles. In this case, it is the assessment of the development's approach to fulfilment of the environmental role that is the key determinant.

### ***Housing land supply***

- 6.10 The NPPF approach to Housing Delivery is set out in Chapter 6 – Delivering a wide choice of high quality homes. Paragraph 47 requires that local authorities allocate sufficient housing land to meet 5 years' worth of their requirement with an additional 5% buffer. Deliverable sites should also be identified for years 6-10 and 11-15. Paragraph 49 states: "Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites."
- 6.11 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, is significantly short of being able to do so, and persistent under-delivery over the last 5 years renders the authority liable to inclusion in the 20% bracket.
- 6.12 On this basis 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 should apply (if it should be concluded that the development is sustainable). As such, the principle of development cannot be rejected on the basis of its location outside the UDP settlement boundary. Furthermore, if the Core Strategy housing growth target for Hereford is to be realised, greenfield sites on the edge of the existing settlement will have to be released.

### ***The impact of the proposal upon the Lugg & Hampton Meadows SSSI, the River Lugg SAC/SSSI and the Lugg Rhea SSSI.***

- 6.13 This application is in close proximity to the River Lugg Site of Special Scientific Interest (SSSI) and the Lugg & Hampton Meadows SSSI. The Lugg Rhea ditch passing just outside the site's

north-eastern boundary also forms part of the SSSI. The Lugg & Hampton Meadows are the largest surviving Lammas meadows in the UK, with management practices extending back as far as the Domesday book.

- 6.14 Paragraph 109 of the NPPF sets out the guiding principles in relation to conservation and enhancement of the natural environment and says that the planning system should contribute to and enhance the natural and local environment by *inter alia* 'protecting and enhancing valued landscapes, geological conservation interests and soils. Development should also minimise impacts on biodiversity and provide net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in bio-diversity, including by establishing 'coherent ecological networks that are more resilient to current and future pressures.' Paragraph 117 requires local authorities to plan for biodiversity on a large, cross-boundary scale, whilst attempting to preserve, restore and re-create priority habitats. Paragraph 118 contains explicit reference to development proposed on land within *or outside* a Site of Special Scientific Interest, stating that in such cases, development likely to have an adverse effect on a SSSI (either individually or in combination with other developments) should not normally be permitted.' The guidance further states that opportunities to incorporate biodiversity in and around developments should be encouraged and that planning permission should be refused "for development resulting in the loss or deterioration of irreplaceable habitats."
- 6.15 Representations received on this issue highlight the potential for adverse effects on the bio-diversity and quality of the Lugg Meadows and the Lugg Rhea (and consequently the River Lugg SAC/SSSI) arising from increased pressure arising from the physical proximity to a housing estate. The permanent loss of the grassland within the site itself is the second principal ecological issue.
- 6.16 Concern has been raised in the representations received relative to the potential adverse impacts of large-scale residential development on the integrity of the Lugg Rhea ditch, which is a tributary of the River Lugg SSSI/SAC. Geological investigation has revealed that the use of the sequentially preferred infiltration techniques to deal with surface water and land drainage run-off is not possible. The use of on-site attenuation techniques is envisaged applying the principles referred to at section 5.10 above.
- Discharging surface water using the most appropriate technique within the SuDS hierarchy that is available for this site;
  - Removing existing septic tanks, which currently ultimately overflow into the Lugg Rhea, thereby offering betterment;
  - Maintaining post development run-off rates to pre-development greenfield run-off rates and volumes, in accordance with planning policy;
  - Provide habitats for wildlife within SuDS ponds, integrated into the development.
- 6.17 The Hydrological Assessment for ground water defined by the underlying geology places the risk of pollutants to localised and site wide ecology to be Moderate-Low and Low respectively both currently and post-development. The Council's Ecologist is satisfied that the additional measures to be adopted for management of surface waters and flood are technologically sound, sustainable and will not affect the ecology of the SSSI either through storm events or outfall to the Lugg Rhea Brook. Both the Internal Drainage Boards and the Environment Agency are content that these issues have been adequately addressed.
- 6.18 As recognised by the Council's Ecologist, the design of the site with plantings and grassland will also have the potential to act as bioretentive filtration for run-off. Establishment of wetland 'basins' as attenuation areas for surface drainage within the sub-catchments will give attenuation of excess flows with the cleansed outfall at the flood prone north-eastern sector of the site. The potential ecological impact of polluted/eutrophic waters on the SSSI should be minimal. The 'treatment train' for surface water flow within the SuDS system incorporates filtration trenches, attenuation ponds, swales for erosion and flow controls. Additionally,

pollutant sequestering will be tackled further through the use of silt and oil interceptors prior to outfall into the Lugg Rhea. Whilst the Council does not yet have a SuDS strategy the Parks, Countryside and Recreation comments will apply that developers are advised to use

*“ ....CIRA guidance but with reference to DEFRA’s draft of the revised SuDS guidance (currently being finalised) and to reference other useful SUDs and wildlife guidance from the Wildfowl & Wetland/RSPB available from the susdrain website”.*

- 6.19 The requirement for the submission and approval of a Construction Environmental Management Plan would also ensure that drainage and potential pollution issues are attended to during construction.
- 6.20 The sixty percent estimate of increased run-off resulting from development together with the allowance made for climate change adds confidence that this development will not significantly aggravate hydrological problems and it is concluded that the loss of permanent pasture in this location will have minimal impact on the water relations of the site and the SSSI.
- 6.21 The current ‘natural’ drainage from agricultural fields takes with it eroded regolith and soil organic content whilst the filtrate from septic tank soak-aways which makes its way to the land drains currently flow to the Lugg Rhea Brook in a relatively unregulated fashion (albeit naturally filtered). As the Council’s Ecologist confirms above, with redirection of foul drainage to the mains (subject to Welsh Water agreement) and regulatory technology installed for controlling surface water, site hydrology and water quality might be expected to improve substantially.
- 6.22 In conclusion on this issue, the Council’s Ecologist, the River Lugg Internal Drainage Board and the Environment Agency have all returned consultation responses which raise no objections to the proposed development in this regard; indeed the Council’s Ecologist considers that the proposed development will result in a biodiversity gain over and above the present situation.
- 6.23 Another potential impact on the adjoining SSSI is referred to in the Hereford Nature Trust and Plantlife objections as the additional pressure brought to bear by an increase in human interaction with the meadows. Although responsible use of the meadows is encouraged, Plantlife identify some issues with vandalism and dog-fouling (which can have adverse impacts on bio-diversity), and are concerned that this will increase with the potential addition of 135 dwellings to the SSSI’s periphery. Although acknowledging the potential for increased human pressures, officers do not consider that the direct impacts can be quantified to such an extent that refusal is justified on this issue alone. The vast majority of the meadows have unrestricted access and to conclude that this development would give rise to unacceptable pressures in this context is, in the view of officers, difficult to substantiate. The applicants have, however, agreed the installation of information and interpretation boards on the public footpath adjacent entry into the SSSI.

#### ***Impacts relative to on-site bio-diversity***

- 6.24 Representations have been made in relation to the loss of grassland within the application site, with reference made to the loss of a very significant proportion of the UK’s lowland meadows in the last 50 years. With this in mind the applicants commissioned an updated assessment of the grassland, reported above at 5.11. The assessment demonstrates that the site is not species rich. This assessment has been reviewed by the Council’ Ecologist, who concurs with the findings, observing as follows:-

*“Previous farming activities have had a deleterious effect on the biodiversity of the sward in both areas. The sward has been substantially degraded and the botanical worth of these two fields reduced to a very species poor plant community dominated by ruderals and rye grass in most areas. Additional surveys requested from the applicant have since confirmed these findings and the potential for reinstatement as unimproved grassland severely undermined. Extensive*

*stands of nettles reflect the enriched status of the site around the old poultry shed whilst other agricultural ruderals are frequent across much of the site.”*

- 6.25 It is thus concluded that whilst not undermining the function of the site as a visual break between the meadows and the edge of city, the application site is not a bio-diverse habitat in itself. Improvements to the sward such that it might become a flower-rich companion to the Lugg Meadows would require substantive management that does not appear possible under the current agricultural regime. One of the DAS highlighted intentions for the scheme is to improve bio-diversity and the Council’s Ecologist confirms that this will be possible even alongside residential development. Natural England has no objection to the development on this issue.
- 6.26 No.144 Aylestone Hill was surveyed to examine the potential for bats. The report concludes that the dwelling does not harbour any bats roosts and is unlikely to support any other protected species. Its loss will not prejudice any known ecological interests.

***The impact of the proposal upon the character and appearance of the historic landscape***

- 6.27 NPPF Paragraph 109 states that valued landscapes should be protected and enhanced. Paragraph 113 advises local authorities to set criteria based policies against which proposals for any development on or affecting protected wildlife or geodiversity sites or landscape areas will be judged. It goes further, however, and confirms that ‘distinctions should be made between the hierarchy of international, national and locally designated sites, so that protection is commensurate with their status and gives appropriate weight to their importance and the contribution that they make to wider ecological networks. Appeal decisions have also confirmed that although not containing the ‘cost-benefit’ analysis of the NPPF, policies LA2 (landscape character), LA3 (setting of settlements), NC1 (biodiversity and development), NC6 (biodiversity action plans), NC7 (compensation for loss of biodiversity) and HBA4 (setting of listed buildings) are broadly consistent with chapters 11 and 12 of the NPPF.
- 6.28 The application site is located immediately adjacent the Lugg & Hampton Meadows SSSI at the foot of Aylestone Hill, which forms the backdrop from the majority of public vantage points from the network of public footpaths and highways to the north. The site lies within Zone 5b of the Council’s Urban Fringe Sensitivity Analysis. Zone 5b forms the highly sensitive transition / buffer zone between the city and the Lugg Meadows (the sensitivity of the latter being accepted by all parties). The Conservation Manager (Landscape) objects to the proposal as set out above at paragraph 4.5. Although accepting that the site does benefit from a degree of screening, the officer considers that the submitted Landscape and Visual Impact Appraisal understates the importance of the site as part of an historic landscape; rather the LVIA has been predicated on assessment of the visual impacts, without full assessment of the impact on the historic landscape. There is disagreement, therefore, in relation to the site’s sensitivity and its function as part of the transition from edge of urban to rural landscape. The Conservation Manager (Landscape) concludes that the proposed development would be contrary to saved UDP policies LA2, LA3, S7, and DR1.
- 6.29 The submitted LVIA acknowledges that the development would result in the loss of grazed pasture land, which is characteristic of the eastern slopes of Aylestone Hill. The scheme would clearly alter the landscape character of the site. Whilst reducing the permeability and openness of views along a section of the Aylestone Hill ridge, the LVIA concludes that the development would not fundamentally alter the relationship between floodplain meadows, slopes and the pattern of suburban development along the flanks of Aylestone Hill.
- 6.30 Whilst not in complete agreement with the findings of the LVIA, officers are conscious of the context set by the lack of housing land supply and the fact that although situated between the Conservation Area and SSSI, the application site is not subject to any specific landscape or conservation designation. In the absence of quantifiable, direct impacts upon the adjacent SSSIs (as discussed above), it is your officers’ opinion that whilst acknowledging the site’s

contribution to the landscape as a 'buffer' against the SSSI, application of NPPF paragraph 113 is necessary. Hence, in the absence of an on-site landscape designation and quantifiable direct and/or indirect impacts upon the SSSI, officers consider the scheme would not, subject to conditions, prejudice nature conservation interests locally or result in significant adverse effects on regional or local landscape character.

- 6.31 Although recognising the direct impacts arising from loss of pasture land and replacement with housing and the direct impact upon the amenity of walkers using the public rights of way network locally, these must be weighed against the benefits of the scheme, including those relevant to the economic and social roles outlined above and the potential benefits to bio-diversity within the site. The scheme includes 3.1ha of public open space, with a significant undeveloped margin to the site's northern and eastern boundaries. It is within these margins that the potential for bio-diverse attenuation basins and wildflower planting is intended. Conditions and/or S106 restrictions will be imposed requiring the formulation of detailed planting and management proposals to ensure that the development masterplan is brought to fruition at the Reserved Matters stage. The imposition of planning conditions will also address the recommendations set out at section 9 of the Conservation Manager's (Landscape) comments at paragraph 4.5 above, with particular attention being paid to detail, especially the palette of colours and materials used.
- 6.32 Whilst acknowledging a degree of conflict with the objectives of 'saved' UDP policies LA2 and LA3 and NPPF paragraph 109, in exercising the planning balance, officers conclude that the nature of harm identified, would not amount to significant and demonstrable adverse impacts that should lead to refusal; particularly given the fact the site itself is not subject to any specific landscape or nature conservation designation. It is also noted that the Conservation Manager (Landscapes) identifies that if the details of the scheme were very carefully considered, from a visual if not landscape character perspective, new houses '*could eventually be relatively well-integrated into the backdrop to the west.*'

#### ***Foul drainage and water supply - Welsh Water holding objection***

- 6.33 Welsh Water has imposed a holding objection in relation to both the inadequacy of the water supply and the lack of foul sewerage capacity. Although modelling assessments have been commissioned for both, Welsh Water is not prepared to impose a Grampian condition. This is on the basis that until the scale of the requisite infrastructure requirements are known, a planning condition would lack the necessary precision and could be regarded as unreasonable in the event that it was subject to challenge.
- 6.34 The developer has sought legal advice in this regard, focussing in particular upon the undertaker's responsibilities under the Water Industry Act 1991 and the appropriate use of Grampian conditions in this regard. The advice concludes that Grampian conditions in such circumstances are lawful provided there is a prospect of the requirements of that condition being fulfilled.
- 6.35 The developer's legal advice confirms the following:-
- (i) There exists a statutory obligation on the sewerage undertaker to provide adequate sewerage infrastructure for both existing and future dwellings;
  - (ii) Appropriate planning conditions can control the timing of development to enable the sewerage undertaker to undertake any necessary works, and;
  - (iii) The scope of works and necessary payments in respect of such works is to be agreed between the developer and the sewerage undertaker in accordance with the Water Industry Act 1991 and in the event of dispute, the regulator (OFWAT) will adjudicate.
- 6.36 The advice considers that this situation is one in which a suitably structured *Grampian* condition can be used to control the phasing of development or indeed to prevent any development until

such time as the available capacity in the system has been identified and the necessary measures put in place to make improvements, if such should be the case.

- 6.37 Officers have also sought their own legal advice, which concurs with that outlined above. In conclusion, the undertaker's position can reasonably be protected through the imposition of a Grampian condition, which could regulate phasing or indeed prevent any development from occurring until such time as capacity in the sewerage and water supply systems has been identified. Officers are also aware of appeal decisions, including one within Welsh Water's jurisdiction, where Inspectors have been prepared to impose such conditions and the Welsh Water holding objection is not considered to debar determination of this application subject to conditions.

### ***Transport***

- 6.38 The application is accompanied by a Transport Assessment and Residential Travel Plan. The former has been subjected to review by the Council's Consultants, which has led to more detailed assessment of the impact upon key junctions on the approach to the city centre, including the twin mini-roundabouts at the Aylestone Hill/Folly Lane/Venns Lane junctions.
- 6.39 Guidance on the assessment of transport impacts is set out at paragraph 32 of the NPPF. Decisions should take account of whether the opportunities for sustainable transport modes have been taken up and whether safe and suitable access to the site can be achieved for all people. Significantly, the NPPF confirms "*development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.*"
- 6.40 The Transportation Manager confirms that the Transport Assessment and subsequent Technical Note indicate that there will be a worsening of the operation of the junction at Aylestone Hill/Venns Lane/Folly Lane, with resultant additional delay and queueing. This is estimated to be an additional 45 seconds in the morning peak and 30 seconds in the evening peak, with an increase in queue length of 11 and 4 vehicles respectively. The Transportation Manager's own timed assessment indicates a current travel time of around 12 minutes from end of queue to roundabout at worst time. In terms of traffic flows, the development would introduce an additional 28 vehicles towards the city and through these junctions, as compared to a total southbound flow of 583 vehicles, ie around a 5% increase.
- 6.41 Any new development will have an impact, but it is the magnitude of impact that must be determined. The NPPF does not define what is meant by 'severe' residual cumulative impacts. It is thus open to individual assessment and interpretation. A local parallel is Home Farm, Belmont. Although the appeal was dismissed, the Inspector concluded that the addition of 85 houses' worth of traffic onto the A465 would not result in the severe residual cumulative impacts envisaged by the NPPF; this conclusion being drawn in the knowledge that the A465/49 is congested with long queues, particularly in the morning and evening peaks. The Inspector concluded on this issue as follows:-

*"In the context of paragraph 32 of 'the Framework' the transport impacts of the development would not be "severe". It would therefore be unsound to withhold permission on the basis of the limited increase in congestion. Whilst commonsense would suggest avoiding making a bad situation worse, I shall not treat this as a 'harm' when I undertake the overall planning balance."*  
(Paragraph 65 of Inspector's Home Farm Appeal Decision APP/W1850/A/13/2192461)

- 6.42 Therefore, whilst further delay and queueing on the highway network is undesirable from a motorist point of view, it could also be argued that if total mitigation of additional vehicle trip impact is provided by way of additional road capacity, there is less incentive to use sustainable modes. Therefore in the view of your officers, mitigation is better achieved by providing and encouraging the use of sustainable travel modes, not just for the development but for existing



car users. Officers consider that the Travel Plan and the schemes indicated in the Draft Heads of Terms would assist in the reduction of the residual cumulative impact.

- 6.43 With provision and introduction of those mitigation measures listed in the Draft Heads of Terms and introduction and promotion of the Travel Plan, it is considered that the residual cumulative impact would not be severe and that in common with Home Farm, it would be unsound to withhold permission on this issue alone.

### **Other Matters**

#### **S106 Draft Heads of Terms**

- 6.44 The S106 draft Heads of Terms are appended to the report. CIL regulation compliant contributions have been negotiated and are summarised as follows:

- 'Education Contribution' - £83,861 based on current housing mix. This figure recognises the fact that the catchment primary and secondary schools have capacity.
- 'Sustainable Transport Contribution' - £256,280 based on current housing mix. This money would be directed towards sustainable transport projects, with potential expenditure on enhancing cycling infrastructure through Aylestone Park and the Prospect Walk cycle scheme. An upgrade to the SCOOT traffic signal controls between the site and the city centre has also been identified at a cost of approximately £20,000.
- 'Off site play' - £138,322 based on current housing mix. This contribution would be directed towards the delivery of sports pitches at Aylestone Park to assist with the fulfilment of long-standing proposals for the site. Alternatively the developer would covenant with the Council to deliver sports pitches in accordance with a pre-agreed specification in lieu of a financial contribution.
- 'Indoor sports' - £64,000 based on current housing mix. This contribution would be directed to indoor sports facilities in the city in accordance with the Indoor Sports Facilities Study.
- 'Waste & Recycling' – £10,680 based on current housing mix.

- 6.45 The S106 will also include provisions to ensure 35% of the development meets the definition of affordable housing, together with requisite standards and eligibility criteria. A maintenance contribution towards the management of on-site public open space and the SUDs basins, which will be adopted by the Council, will also be required.

#### **Impacts on Archaeology & the setting of Heritage Assets**

- 6.46 The potential for significant archaeology on site is considered low. A planning condition requiring a written scheme of investigation is nonetheless recommended as a safeguard. The Conservation Officer (Historic Buildings) confirms that the development would not materially harm the setting or significance of any of the nearby listed buildings, which are already substantially enclosed by later development up the ridge. The scheme is not, therefore, contrary to NPPF policies of saved policy HBA4. The scheme is also considered acceptable in relation to the impact on the character of the Conservation Area and the loss of No.144 itself.

#### **Arboricultural Impacts**

- 6.47 A total of five trees require removal, principally to facilitate the means of access and the centrally located drainage area. Elsewhere the root protection area of retained trees is respected by the masterplan, including two off-site trees in the grounds of The Shires (formerly Walney House) which are subject of a Tree Preservation Order. A condition is recommended

requiring the protection of retained trees. The scheme also envisages the planting of approximately 130 trees and several hundred metres of hedgerow. In this respect the proposals are considered to accord with saved UDP policy LA5 (protection of trees, woodlands and hedgerows) and NC7 (compensation for loss of biodiversity).

### **The impact on neighbouring properties**

- 6.48 The development would have an impact on the outlook of a number of properties on Aylestone Hill; most obviously those to the immediate west of the site. The loss of amenity in terms of outlook has the potential to be significant, although the planning system affords no protection to existing views from private dwellings.
- 6.49 In terms of direct impacts arising from overlooking, the masterplan indicates a significant buffer between dwellings on and off site, capitalising on the presence of the Welsh Water main which runs the length of the western boundary. The layout demonstrates that the desirable 21 metre window-to-window distance can be achieved. Officers are therefore satisfied that subject to careful assessment at the Reserved Matters stage a layout can be designed that adequately mitigates the potential for overlooking. In this regard the DAS also references the potential siting of bungalows on the lower-lying land on the site's western boundary, which would further assist in this objective. The proposal is therefore considered capable of satisfactorily addressing concerns expressed by neighbours and fulfils the requirements of saved UDP policies DR1 and H13 and NPPF paragraph 17, which seeks high quality design and good standards of amenity.

### **Community consultation**

- 6.50 The site was subject of public consultation via an exhibition held at the Royal National College for the Blind. This was publicised via a leaflet drop to over 300 local addresses and adverts placed in the Hereford Times. Officers are content that the consultation exercise has fulfilled the requirements of the adopted Statement of Community Involvement and that the process has informed the resultant design.

### **Precedent**

- 6.51 Concern has been expressed that approval of this development might signal the potential for further applications on the Aylestone Hill ridge. Each case must, however, be decided on its merits and the setting of a precedent is not reason to withhold permission.

### **Conclusions and Recommendations**

- 6.52 The Council cannot demonstrate a five-year supply of housing land with requisite buffer. The housing policies of the UDP are thus out of date and the full weight of the NPPF is applicable. UDP policies may be attributed weight according to their consistency with the NPPF; the greater the consistency, the greater the weight that may be accorded. The pursuit of sustainable development is a golden thread running through both plan-making and decision-taking and identifies three dimensions to sustainable development; the economic, social and environmental roles.
- 6.53 When considering the three indivisible dimensions of sustainable development as set out in the NPPF, officers consider that the scheme when considered as a whole is representative of sustainable development and that the presumption in favour of approval is engaged. The site lies outside but directly adjacent the built up edge to Hereford City, in what is in locational terms a sustainable location with good access to a wide variety of services, facilities and employment opportunities. In this respect the proposal is in broad accordance with the requirements of chapter 4 of the NPPF (Promoting sustainable travel).

- 6.54 The contribution the development would make in terms of jobs and associated activity in the construction sector and supporting businesses should also be acknowledged as fulfilment of the economic role. Likewise S106 contributions and the new homes bonus should also be regarded as material considerations. In providing a greater supply of housing and breadth of choice, including 35% affordable, officers consider that the scheme also responds positively to the requirement to demonstrate fulfilment of the social dimension of sustainable development.
- 6.55 The tension, in this case, relates to the environmental role. In ecological terms, officers conclude that there is no overriding evidence of significant or demonstrable harm of nature conservation interests. Subject to the imposition of conditions Natural England, the Environment Agency and the Council's Ecologist record no objection. The potential for the scheme to benefit water quality in the Lugg Rhea (and consequently the River Lugg SSSI/SAC), the biodiversity of the site itself and the lack of direct impact on the flora of the Lugg & Hampton Meadows SSSI lead officers to the conclusion that notwithstanding the potential harm to visual amenity, the scheme is representative of sustainable development from an environmental perspective. It is also the case that the examples cited at footnote 9 to paragraph 14 are not applicable to this site i.e. the site itself is not subject to any national or local designations that indicate that development ought to be restricted.
- 6.56 Officers conclude that there are no highways, drainage, ecological or archaeological issues that should lead towards refusal of the application and that any adverse impacts associated with granting planning permission are not considered to significantly and demonstrably outweigh the benefits. It is therefore recommended that planning permission be granted subject to the completion of a legal undertaking and planning conditions.

## **RECOMMENDATION**

**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 EDP and the Design and Access Statement (Bovis Home) dated March 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 135 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. H17 Junction improvement/off site works
11. H18 On site roads - submission of details
12. H19 On site roads - phasing
13. H20 Road completion in 2 years
14. H21 Wheel washing
15. H27 Parking for site operatives
16. H29 Secure covered cycle parking provision
17. H30 Travel plans
18. E01 Site investigation - archaeology
19. L01 Foul/surface water drainage
20. L02 No surface water to connect to public system
21. L04 Comprehensive & Integrated draining of site
22. G04 Protection of trees/hedgerows that are to be retained
23. G10 Landscaping scheme
24. G11 Landscaping scheme - implementation
25. No development shall take place until a foul drainage scheme to satisfactorily accommodate the foul water discharge from the site has been submitted to and approved in writing by the local planning authority. No part of the development shall be brought into use and no dwelling shall be occupied until the approved foul drainage system has been constructed, completed and brought into use in accordance with the approved scheme.

**Reason:**

26. The recommendations set out in Section 5 of the ecologist's report from Ecology Services dated March 2014 should be followed in relation to species mitigation and habitat enhancement. Prior to commencement of the development, an ecological management plan incorporating habitat enhancement, creation and management with an ecological interpretation of the site and its environs. The management plan should be submitted to, and be approved in writing by, the local planning authority and the work shall be implemented as approved.  
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

27. Prior to commencement of development, a Construction Environmental Management Plan shall be submitted for approval in writing by the local planning authority and shall include timing of the works, details of storage of materials and measures to minimise the extent of dust, odour, noise and vibration arising from the demolition and construction process. Specific measures to safeguard the integrity of the adjacent SSSI including the Lugg Rhea Brook should be highlighted such as pollution risk and increased use projections. The Plan shall be implemented as approved.

Reasons: To ensure that all species and sites 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's Unitary Development Plan.

To comply with policies NC8 and NC9 within 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.

**INFORMATIVES:**

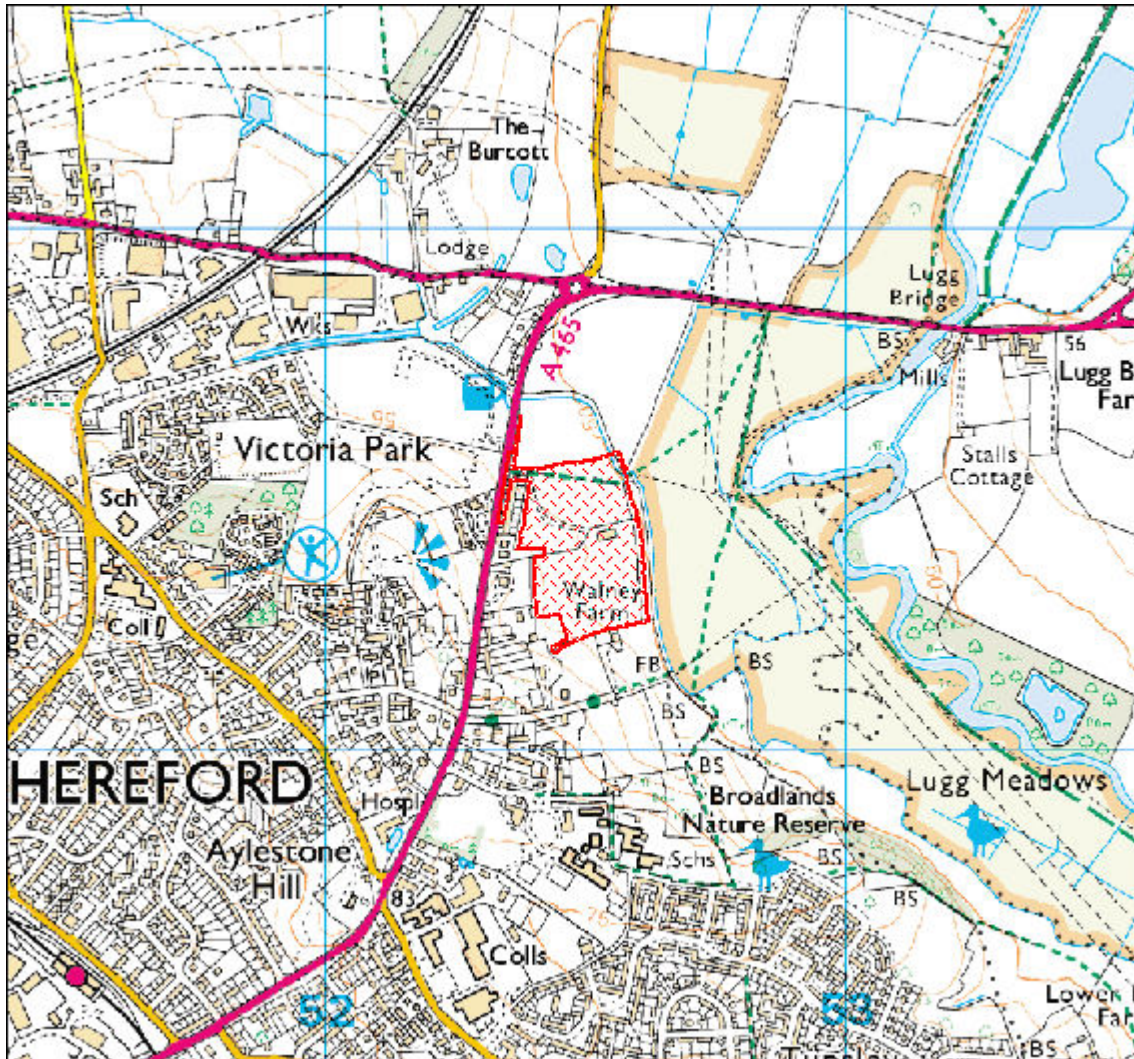
1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations that have been received. It has subsequently determined to grant planning permission 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. HN08 Section 38 Agreement & Drainage details
4. HN07 Section 278 Agreement
5. HN04 Private apparatus within highway
6. HN28 Highways Design Guide and Specification
7. HN27 Annual travel Plan Reviews
8. HN25 Travel Plans
9. HN13 Protection of visibility splays on private 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:** 140963/O

**SITE ADDRESS :** LAND AT 144 AYLESTONE HILL, AND LAND TO THE EAST OF AYLESTONE HILL, HEREFORD, HR1 1JJ

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

# DRAFT HEADS OF TERMS

## Proposed Planning Obligation Agreement Section 106 Town and Country Planning Act 1990

This Heads of Terms has been assessed against the adopted Supplementary Planning Document on Planning Obligations dated 1<sup>st</sup> April 2008. All contributions in respect of the residential development are assessed against general market units only.

Planning application reference: P140963/O

Site for the development of up to 135 homes (89 open market units and 46 affordable homes), public open space, new access (including demolition of 144 Aylestone Hill), structural landscaping, sustainable drainage including balancing ponds and infrastructure on land at 144 Aylestone Hill and land to the east of Aylestone Hill, Hereford, HR1 1JJ.

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

**£1,891.00** (index linked) for a 2 bedroom open market dwelling

**£3,106.00** (index linked) for a 3 bedroom open market dwelling

**£5,273.00** (index linked) for a 4+ bedroom open market dwelling

***On the indicative housing scheme submitted this would equate to £83,861.39.***

The contributions will provide for enhanced educational infrastructure at North Hereford Early Years, St Francis Xavier Roman Catholic Primary School (5% of total contribution), St Mary's Roman Catholic High School (8% of total contribution), and the Special Education Needs Schools (1% of total contribution). The sum shall be paid on or before first occupation of the 1<sup>st</sup> open market dwellinghouse, and may be pooled with other contributions if appropriate.

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

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

***On the indicative housing scheme submitted this would equate to £146,282.00.***

The contributions will provide for sustainable transport infrastructure to serve the development, which sum shall be paid on or before occupation of the 1<sup>st</sup> open market dwellinghouse and may be pooled with other contributions if appropriate. The sustainable transport infrastructure will include improvements to cycling and walking facilities between the site, colleges/schools and the city centre, and local employment sites (the schemes could include the Prospect Walk scheme @ £250,000, Aylestone Park cycle facility @ £200,000.00 and improvements to public transport facilities. The SCOOT system controlling the traffic signal between the site and the city centre needs upgrading as it is at capacity @ £20,000.00).

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

- £878.00** (index linked) for a 1 bedroom open market dwelling
- £1066.00** (index linked) for a 2 bedroom open market dwelling
- £1,442.00** (index linked) for a 3 bedroom open market dwelling
- £1,756.00** (index linked) for a 4 bedroom open market dwelling

***On the indicative housing scheme submitted this would equate to £138, 332.00.***

The contributions will provide for off-site play facilities, an off-site contribution to meet policy requirements towards Aylestone Park and the provision of community sports facilities to develop a junior hub for football with training facilities for all ages and associated infrastructure in meeting identified deficiencies in the Playing Pitch Assessment for Hereford, which sum shall be paid on or before occupation of the 1<sup>st</sup> open market dwellinghouse and may be pooled with other contributions if appropriate.

4. Alternatively, the developer covenants with Herefordshire Council to:



4.1 The removal of the top soil from the development site (subject to a waste management plan)

4.2 Before occupation of any dwelling on the land to pay the sports contribution to the Council unless the owner has entered into a contract with the Council for the relocation of the top soil referred to in paragraph 4.1 above for the provision of 3 sports pitches at Aylestone Hill Park. The developer will be liable for the laying out of the pitches i.e levelling and appropriate drainage in accordance with condition 2 of planning permission HC940371QZ/E which states that notwithstanding the details indicated on the deposited drawing full details of the design, location and construction of the proposed playing pitches shall be submitted to and agreed by the Local Planning Authority prior to commencement.

5 The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of **£10,680.00** (index linked). The contribution will provide for waste reduction and recycling in Hereford. The sum shall be paid on or before occupation of the 1<sup>st</sup> open market dwelling, and may be pooled with other contributions if appropriate.

6 The developer covenants with Herefordshire Council to either pay Herefordshire Council a 15 year commuted sum for maintenance of the on-site Public Open Space (POS) and Attenuation Basins, if to be adopted by the Council. Such sums to be calculated in accordance with the Council's tariffs or, the maintenance of the on-site Public Open Space (POS) will be by a management company which is demonstrably adequately self-funded or will be funded through an acceptable on-going arrangement; or through local arrangements such as a Trust set up for the new community for example. There is a need to ensure good quality maintenance programmes are agreed and implemented and that the areas remain available for public use.

*Note: The attenuation basin will be transferred to the Council with a 60 year commuted sum. This will be done as part of a land transfer.*

- 7 The developer covenants with Herefordshire Council that 35% of the residential units shall be “Affordable Housing” which meets the criteria set out in policy H9 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework or any statutory replacement of those criteria and that policy including the Supplementary Planning Document on Planning Obligations (2008).
- 8 Of those Affordable Housing units, at least 54% shall be made available for social rent with the remainder 46% being available for intermediate tenure occupation. For the avoidance of doubt, the term intermediate tenure shall not include equity loans or affordable rent.
- 9 All the affordable housing units shall be completed and made available for occupation prior to the occupation of no more than 80% of the general market housing or in accordance with a phasing programme to be agreed in writing with Herefordshire Council.
- 10 The Affordable Housing Units must at all times be let or managed by a Registered Provider in accordance with the guidance issued from time to time by the Homes and Communities Agency (or any successor agency) with the intention that the Affordable Housing Units shall not be used for any purpose other than the provision of Affordable Housing by way of Social Rented Housing and Intermediate Housing (unless otherwise agreed in writing by the Council) to persons who are:
  - 10.1 registered with Home Point at the time the Social Rented Housing Unit or the Intermediate Rent Housing Unit become available for residential occupation; or
  - 10.2 is eligible for a Shared Ownership Housing Unit under the Herefordshire Allocations Policy and the allocation policy of the landlord Registered Proprietor; and
  - 10.3 satisfy the requirements of paragraph 13 below.
11. The Affordable Housing Units must be advertised through Home Point and allocated in accordance with the Herefordshire Allocation Policy for occupation as a sole residence to a person or persons one of who has:-

11.1 a local connection with the parish of Aylestone;

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

12. For the purposes of sub-paragraph 11.1 of this schedule 'local connection' means having a connection to one of the parishes specified above because that person:

12.1 is or in the past was normally resident there; or

12.2 is employed there; or

12.3 has a family association there; or

12.4 a proven need to give support to or receive support from family members; or

12.5 because of special circumstances

13. The developer covenants with Herefordshire Council to construct the Affordable Housing Units to the Homes and Communities Agency 'Design and Quality Standards 2007' (or to a subsequent design and quality standards of the Homes and Communities Agency as are current at the date of construction) and to Joseph Rowntree Foundation 'Lifetime Homes' standards. Independent certification shall be provided prior to the commencement of the development and following occupation of the last dwelling confirming compliance with the required standard.

14. The developer covenants with Herefordshire Council to construct the Affordable Housing Units to Code Level 3 of the 'Code for Sustainable Homes – Setting the Standard in Sustainability for New Homes' or equivalent standard of carbon emission reduction, energy and water efficiency as may be agreed in writing with the local planning authority. Independent certification shall be provided prior to the commencement of the development and following occupation of the last dwelling confirming compliance with the required standard.
15. In the event that Herefordshire Council does not for any reason use the sum specified in paragraphs 1, 2, 3, 4 and 5 above for the purposes specified in the agreement within 10 years of the date of this agreement, the Council shall repay to the developer the said sum or such part thereof, which has not been used by Herefordshire Council.
16. The sums referred to in paragraphs 1, 2, 3, 4 and 5 above shall be linked to an appropriate index or indices selected by the Council with the intention that such sums will be adjusted according to any percentage increase in prices occurring between the date of the Section 106 Agreement and the date the sums are paid to the Council.
17. The developer covenants with Herefordshire Council to pay a surcharge of 2% of the total sum detailed in this Heads of Terms, as a contribution towards the cost of monitoring and enforcing the Section 106 Agreement. The sum shall be paid on or before the commencement of the development.
18. The developer shall pay to the Council on or before the completion of the Agreement, the reasonable legal costs incurred by Herefordshire Council in connection with the preparation and completion of the Agreement.

Yvonne Coleman

Planning Obligations Manager



<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>27 AUGUST 2014</b>
<b>TITLE OF REPORT:</b>	<b>P140164/O - SITE FOR THE ERECTION OF 16 NOS. DWELLINGS AT LAND TO THE REAR OF PARADISE MEADOWS, MARDEN, HEREFORDSHIRE, HR1 3EN</b>  <b>For: P. J. Developments per Mr John Phipps, Bank Lodge, Coldwells Road, Holmer, Hereford, Herefordshire HR1 1LH</b>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=140164&amp;search=140164">https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=140164&amp;search=140164</a>

**Date Received: 23 January 2014**

**Ward: Sutton Walls**

**Grid Ref: 351878,247583**

**Expiry Date: 26 May 2014**

Local Member: Councillor K S Guthrie

## 1. Site Description and Proposal

- 1.1 The application lies to the west of the main settlement of Marden to the North of Hereford. The site lies immediately south of the settlement boundary and the new 'Paradise Meadows' development of 17 dwellings. The site is 0.58 hectares in size and is laid to paddock / grassland. The site levels rise from north to south with mature hedgerow boundary to the south, partial fence and hedge to the west and mature hedge to the east. The boundary with the new dwellings on Paradise Meadows is a new one metre stock proof fencing. To the east of the site are the properties that form part of Orchard Green and to the west are a number of detached dwellings, served via access from the C1122 road between Paradise Meadows and Laystone Bridge.
- 1.2 The application seeks outline planning permission with all matters reserved for the erection of 16 dwellings. An indicative plan has been submitted with the application that provides a suggested layout. A draft heads of terms is attached to this report and includes the provision of 35% affordable housing (6 units). Access to the site would be via Paradise Meadows. A public Right of Way crosses the site.

## 2. Policies

### 2.1 National Planning Policy Framework (NPPF)

The following sections are of particular relevance:

Introduction	-	Achieving Sustainable Development
Section 6	-	Delivering a Wide Choice of High Quality Homes
Section 7	-	Requiring Good Design
Section 8	-	Promoting Healthy Communities
Section 11	-	Conserving and Enhancing the Natural Environment

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

## 2.2 Saved Policies of the Herefordshire Unitary Development Plan 2007 (UDP)

S1	-	Sustainable Development
S2	-	Development Requirements
S3	-	Housing
S7	-	Natural and Historic Heritage
DR1	-	Design
DR2	-	Land Use and Activity
DR3	-	Movement
DR4	-	Environment
DR5	-	Planning Obligations
DR7	-	Flood Risk
H7	-	Housing in the Countryside Outside Settlements
H9	-	Affordable Housing
H13	-	Sustainable Residential Design
H15	-	Density
H19	-	Open Space Requirements
HBA4	-	Setting of Listed Buildings
LA2	-	Landscape Character and Areas Least Resilient to Change
LA3	-	Setting of Settlements
LA5	-	Protection of Trees, Woodlands and Hedgerows
LA6	-	Landscaping Schemes
NC1	-	Biodiversity and Development
NC6	-	Biodiversity Action Plan Priority Habitats and Species
NC7	-	Compensation for Loss of Biodiversity
CF2	-	Foul Drainage

## 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
H1	-	Affordable Housing – Thresholds and Targets
H3	-	Ensuring an Appropriate Range and Mix of Housing
OS1	-	Requirement for Open Space, Sports and Recreation Facilities
OS2	-	Meeting Open Space, Sports and Recreation Needs
MT1	-	Traffic Management, Highway Safety and Promoting Active Travel
LD1	-	Local Distinctiveness
LD2	-	Landscape and Townscape
LD3	-	Biodiversity and Geodiversity
SD1	-	Sustainable Design and Energy Efficiency
SD3	-	Sustainable Water Management and Water Resources
ID1	-	Infrastructure Delivery

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

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

## 3. Planning History

### 3.1 130951 - Erection of 5 detached dwellings – Undetermined

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

## 4. Consultation Summary

### *Statutory Consultation responses*

- 4.1 Welsh Water – No Objection – recommends conditions be attached to any planning permission. Note regarding the siting of the line of the public Sewer within the site.
- 4.2 Lugg Drainage Board – I would like to inform you of the Board’s standard requirements in respect of the soakaways and ask that they be taken into consideration when the application is assessed.

The developer must establish ground conditions are suitable in accordance with BS 5911-3:2002 for the use of soakaways. Percolation tests to establish the suitability of the use of soakaways must be conducted at the appropriate time of year i.e not during abnormal weather conditions such as heavy rain, severe frost or drought (The method will also require Local Authorities Building Control Departments Approval).

Bearing this in mind, I would like to remind the developer of the Board’s standard requirements in respect of surface waste disposal:

- Rates for storm water runoff discharged from the site to replicate or achieve a reduction from the ‘*greenfield*’ response of the site over a range of storm probabilities, accompanied by the *required On-site Storage* designed for the 1 in 100 year storm event.
  - For the range of annual flow rate probabilities, up to and including the 1% annual probability (1 in 100 year storm event) the developed rate of *run-off discharged from the site into a Viewed or ordinary watercourse shall be no greater than the undeveloped rate of run-off for the same event.*
  - The potential effect of future climate change shall be taken into account by increasing the rainfall depth by 10% for computing storage volumes.
  - All in compliance with The Institute of Hydrology Report 124 (IoH 124) - *Flood estimation for small catchments (1994)*
  - All to the satisfaction of the Engineer to the Board
- 4.3 English Heritage: The application(s) should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice.

### *Internal Consultees*

- 4.4 The Transportation Manager makes the following comments:

The principle of the development is acceptable. It would be preferable to secure a continuous footway to the village, but I understand this has not been possible. The existing public footpath is to be diverted as part of the proposals, but it is unfortunate that this no longer continues to the south east to link to the village and I presume there is no chance of securing an alternative route for this to do so.

Whilst all matters are reserved I will provide comments on the indicative layout submitted.

The principle of serving the development from the development to the north is acceptable, but alterations will be required to the layout of that development to remove the exiting turning head and achieve a more compatible arrangement. As the development is not yet adopted, if permission is granted I would suggest that agreement be amended to suit the new road layout. The layby indicated on the plan, which appears to be left over from the previous layout for less houses, would not be required.

The overall design should be in accordance with our Highways Design Guide for New Developments.

Section 106 contributions should be sought in respect of the Open Market properties in accordance with our SPD.

4.5 The Conservation Manager (Historic Buildings) makes the following comments:

There are three listed buildings in the vicinity of the application site. Leystone Bridge is a grade II\* listed structure that brings the local road over the River Lugg from the west. Despite the close proximity of the bridge to the proposed housing site it is considered that the natural landscape combined with the existing built environment would protect the setting of the listed bridge from harm.

The other two listed buildings are both grade II and are Upper Paradise Farmhouse and as associated barn to the west. The farmstead still retains its agricultural setting since it adjoins fields to the west; however the new developments to the north, south and east have encroached on its original rural setting. It would be difficult to argue that this housing application would cause further harm to the setting of the farmstead, given the level of 20<sup>th</sup> century development and the agricultural fields still to the west.

The indicative plan of the development shows that it would continue the roadside development's character of very small plots – some of the rear gardens are only about 6m deep which seems woefully inadequate. Most of the 20<sup>th</sup> century development in Marden has occurred in piecemeal fashion, taking one field at a time. This has resulted in a series of cul-de-sacs with no interconnectivity. The proposal for the Paradise Meadows site follows this example except that the cul-de-sac road has become narrower and longer.

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

I am afraid I would recommend refusal as there is no accompanying ecological survey or information on how foul drainage is to be managed. With regard to the former, I believe the applicant was required to complete one for an earlier application 130951/F for the same site which has not been submitted. In respect of any impacts on the River Lugg the applicant is required to show that disposal of surface water and foul drainage is properly managed. Surface water needs to be managed through a SUDs and foul drainage should be connected to the mains and confirmation obtained that Welsh Water's treatment works can accommodate the development.

Following the receipt of the Ecological Report the following comments were made:

Thank you for forwarding the ecological report which I have read and, although surveys were not carried out at an optimal time of year, I am content that it covers the salient aspects of site ecology. I note the low biodiversity of the site but also the potential for enhancements recommended in the report especially for bats (lighting) and birds (nest boxes). The proposals regarding hedgerow protection also need to be followed. In order to achieve this I would recommend the addition of a condition for habitat and species enhancements.

In respect of any impacts on the River Lugg the surface water will be managed through a SuDS and foul drainage will be connected to the mains. There should be no impact upon the R. Lugg part of the R. Wye Special Area of Conservation.

4.7 The Public Rights of Way Manager objects as the proposed development would be built over public footpath MR45A.



- 4.8 The Environmental Health Officer raises no objection but recommends a condition limiting hours of construction.
- 4.9 The Environmental Health Officer (Contaminated Land) has no adverse comments to make regarding this proposal.
- 4.10 The Housing Enabling Manager I am not in support of the application in its current form as the applicant has failed to provide 35% (6) of the site for affordable housing.

In order for me to support the application the developer would need to provide 6 units for affordable housing, 3 for social rent and 3 for intermediate tenure with the exact mix being agreed prior to the reserved matters application being submitted.

The units would need to be built to the Homes and Communities Design and Quality Standards, minimum level 3 for the Code of Sustainable Homes and Lifetime Homes. The units would need to have a minimum 10 year NHBC and local connection to Marden.

## 5. Representations

### 5.1 Marden Parish Council:

The Parish Council opposes this application on the following grounds:

1. The proposed layout of the site results in 14, Orchard Green being overlooked, and properties in Paradise Gardens would also be overlooked. It is therefore suggested that the layout of properties should be changed. It is suggested that the larger houses at plots 1, 2 and 3 should be placed adjoining the boundary with Orchard Green and the houses on plots 8 to 14 should be placed on the area currently proposed for plots 1, 2 and 3. This would mean there would be larger gardens at the rear of the larger houses, reducing the impact on properties in Orchard Green. It is also suggested that the development should incorporate some semi-detached two bed roomed properties available for elderly and disabled occupation.
  2. It is noted that the Public Rights of Way Officer objects to the application because it involves the diversion of footpath MR 45A. It is not clear from the plans to what extent the footpath is being altered and where it is proposed to join it to its original route. Further clarification is requested.
  3. There appears to be no provision for pedestrian footways on the site, and the parish council believes they should be provided.
  4. There is no indication of how provision of services, particularly sewerage will be secured. It is noted that the village sewerage system is already under pressure. There is also concern that the development will increase flooding risk on the lower part of the development.
  5. The existing access to the whole site is considered to be inadequate for 33 houses and will need revision. For these reasons the parish council believes the application should be refused and a revised scheme that addresses these issues should be requested
- 5.2 5 letters of objection and a petition of 33 signatures of local objectors have been received along with the letter outlining their objections. These can be summarised as follows:
- Original plans for 5 detached dwellings was what local residents expected. Additional dwellings would impact on area, environment and quality of life.
  - *Localism* – concern over advertising of application.
  - *Surface Water Run Off*

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

- the proposed site is at a higher level than the existing development. The whole area has been saturated by heavy rains and the water drainage has proved inadequate with only one single main drain to take water away.
- Further development will exacerbate an already inadequate water drainage system and could create flooding issues, both from surface water and rising groundwater. Soakaways will not capture all the water.
- The proposal would potentially increase the flood risk to adjacent properties that lie just outside of flood zones 2 and 3.
- The proposal would need to meet the Lugg Drainage Boards requirements and because the site is so crowded there is nothing to suggest that this can be achieved.
- The original application required retention of the historic pond but this has been altered / filled in.
- Surface water flooding from this site onto the adjoining site already an issue.
- *Foul Water / Sewerage*
- There is no provision made for the disposal of Foul Sewerage and the line of the public sewer crosses the site.
- The pumping station has been blocked and flooded properties locally. This pumping station is not adequate.
- *Access to the site.*
- The only access point is inadequate for the potential traffic involved and the road surface would deteriorate.
- Additional traffic would cause noise and disturbance
- Could be problematic for emergency vehicles
- Given high volumes of localised traffic, these additional traffic movements would make the quality of life for residents so much worse.
- *Services*
- All residents have experienced long delays getting phone / internet services and making more connections could be disruptive / not enough capacity
- *Building work / Disruption*
- Impact upon residential amenity for lengthy period (already been three years)
- *Design*
- Impact upon amenity / loss of light and loss of privacy
- Insufficient car parking for dwellings meaning indiscriminate parking on the highways. No visitor parking. Parking already an issue on the adjoining site
- There is a preference for the five bungalows on the site for older / disabled people. There was no objection to this.
- Density of development – packed in.

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

6.1 The planning application is made in outline with all matters reserved for the erection of up to 16 dwellings on land to the rear (South) of Paradise Meadows, a recently constructed development of 17 dwellings. The site is outside but adjacent to the settlement boundary for the settlement of Marden as defined by the Unitary Development Plan.

6.2 The key issues are considered to be:-

- The principle of development
- Impact on the existing settlement in terms of landscape character and amenity;
- Drainage (Foul and Surface)
- Residential Amenity
- Ecology
- Highways

*The principle of development*

6.3 S38 (6) of the Planning and Compulsory Purchase Act 2004 states as follows:

*“If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.”*

6.4 In this instance the Development Plan for the area is the Herefordshire Unitary Development Plan 2007(UDP). The plan 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 The two-stage process set out at S38 (6) requires, for the purpose of any determination under the Act, assessment of material considerations. 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;&*
- *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.”

It is the second bullet point that is relevant in this case.

6.8 The NPPF approach to Housing Delivery is set out in Chapter 6 – Delivering a wide choice of high quality homes. Paragraph 47 requires that local authorities allocate sufficient housing land to meet 5 years’ worth of their requirement with an additional 5% buffer. Deliverable sites should also be identified for years 6-10 and 11-15. Paragraph 47 underlines that UDP housing supply policies should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites.

- 6.9 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, is significantly short of being able to do so, and persistent under-delivery over the last 5 years renders the authority liable to inclusion in the 20% bracket.
- 6.10 The application site lies adjacent to a main settlement that has access to community facilities and services such as the shop, public house and primary school. This settlement has good public transport links to the wider service centres with their shops, services and employment opportunities and transport links to further afield. The proposed erection of up to 16 dwellings, including 35% affordable, on a deliverable and available site in a sustainable location is a significant material consideration telling in favour of the development to which substantial weight should be attached.
- 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 within the draft Local Plan the village of Marden has been identified as one that would be a main focus of proportionate housing development (RA1).
- 6.12 The presumption in favour of the approval of sustainable development may only be engaged if a development proposal demonstrates that it is representative of sustainable development. Although not expressly defined, the NPPF refers to the three dimensions of sustainable development as being the economic, environmental and social dimensions and these roles must be considered as part of the assessment of this application.
- 6.13 There also remains a requirement for the development to accord with other relevant UDP policies and NPPF guidance; paragraph 14 makes it clear that the balance between any adverse impacts and benefits should be assessed against the policies in the NPPF as a whole. However, in terms of principle, if the development is acceptable in all other respects, officers consider that the conflict with UDP policy H7 is not a reason for refusal that could be sustained if subject to appeal.
- 6.14 It is also noted that this site has been assessed via the Strategic Housing Land Availability Assessment 2012 as having low / minor constraints (HLAA/334/001) and would therefore comply with the interim policy Statement agreed by Cabinet on the 12th July 2012.

*Affordable Housing provision*

- 6.15 Policy H9 of the Unitary Development Plan requires the provision of 35% affordable housing on sites of more than 0.2 ha (H4 identified settlements and Kington). The application submission made provision for 3 dwellings, but the full provision has since been agreed as detailed within the Heads of Terms attached to this report. As such the requirements of policy H9 have been met. The provision of affordable housing is an important social role of sustainability to which weight can be attributed.

*Impact on the existing settlement in terms of landscape character and amenity;*

- 6.16 The application is a well contained site that has very limited impact on the wider landscape context of settlement. Existing boundary hedges would be retained to ensure that this natural distinction and protect the landscape character of the area and would be a natural 'rounding off' of this part of the settlement. The proposal would comply with the requirements in terms of policy LA2 and LA3 of the Unitary Development Plan. Detailed layout, density and design issues

would be considered at Reserved Matters stage having reference to policies DR1 and H13 of the Unitary Development Plan.

- 6.17 Representations raise concerns about density and potential impact upon the amenities and living conditions enjoyed by those properties located adjacent to the proposed development. These comments have been made in response to the indicative plan submitted and it is acknowledged by officers that there are elements of this plan that may cause concern in respect of amenity and character. The comments made as part of this application are noted and future submissions would need to address concerns raised, provide topographical surveys, site levels and design details that would further enable more informed consideration of these issues so ensure compliance with the relevant Local Plan policies at that time. A careful review of the relationship between these neighbouring properties at detail stage could satisfactorily address these concerns and this, on its own, should not be regarded as justification for rejecting the proposed scheme. The NPPF also places significant weight on good design and this is again an issue that can be fully addressed at the reserved matters stage.

#### *Drainage (Foul and Surface)*

- 6.18 The development proposes connection to the mains drainage system for foul drainage. Welsh Water have confirmed that they have no objections to the proposal and the applicant will be made aware of the siting of the main drain within the site and will need to accommodate this in any subsequent applications that seek to agree layout of the development.
- 6.19 One of the key concerns relates to the lack of detail in respect of surface water drainage and the potential for additional surface water from the development giving rise to an increased risk of flooding or localised surface water flooding in the area. The site lies to the south of the flood zones that are associated with the River Lugg and as such the disposal of surface water is a matter that requires careful consideration. The application, being in outline form has not included detailed technical details for surface water mitigation within the site. These would be required as part of the reserved matters submission, wherein the technical solutions would have been fully explored once the extent of hard surfacing, road layouts etc have been established. The comments and requirements of the Lugg Drainage Board would need to be accommodated in the design of the SUDs system. Officers are satisfied that the requirements of policy DR4 can be met with a technical solution and will be fully considered as part of any subsequent Reserved Matters application.

#### *Ecology*

- 6.20 The application site lies in close proximity to the River Lugg. The river and part of its corridor are designated as Special Area Conservation (SAC) and Sites Special Scientific Interest (SSSI). A Phase 1 habitat survey has been undertaken for the site and the Council's ecologist has confirmed that subject to undertaking and incorporating the recommendations of the report the proposal would comply with the requirements of policies NC1, NC6 and NC7 of the Unitary Development Plan.

#### *Highways and Public Right of Way*

- 6.21 Despite this application being in outline form only, the proposed development will inevitably be accessed via the existing development of Paradise Meadows. Local residents raise concern about additional traffic movements in terms of noise, disturbance and fumes and additional traffic on the highway network. The Council's Transportation Manager is satisfied that the proposal can be accommodated on the highway network. The additional traffic movements, associated with residential use, through a short stretch of Paradise Meadows would not represent an intensification of use that would cause any significant impact on residential amenity or highway safety and as such this element of the proposal would comply with policy DR2 of the Unitary Development Plan.

6.22 The application has attracted an objection from the Public Rights of Way Manager. The Public Right of Way at present is not evident on the site with no access to the west. The Public Right of Way extends from the Public Right of Way that runs alongside the River Lugg to the west and concludes at the C1120 to the east. However, the line of this Public Right of Way crosses through four gardens and through the dwelling known as 1 Orchard Green. Whilst the objection is a material consideration, a separate application made to the Public Rights of Way team (Balfour Beatty) would be required to extinguish or divert this route once the layout has been considered and agreed. This process would involve a separate consultation with the Parish Council.

*Section 106 agreement*

6.23 In accordance with the requirements of Policy DR5 of the Unitary Development Plan and the Supplementary Planning Document – Planning Obligations, a Heads of Terms has been prepared and agreed with the applicant.

*Conclusion*

6.24 The consultation process has identified a number of concerns and these matters have been considered above. The application sites location is considered to be sustainable, and the development has been considered having regard to the roles of sustainable development that are identified in the NPPF. Acknowledging that the Council does not have a five year Housing Land Supply, paragraph 49 of the NPPF and in particular the requirements of paragraph 14 of the NPPF are an important and critical consideration that attract significant weight within the planning balance.

6.25 The proposals would assist in addressing the shortfall in housing supply within Herefordshire and contribute towards achieving a five year supply of housing. It would also increase choice of housing and accord with the Government's objective to boost significantly the supply of housing. These are important matters which should also be given considerable weight in the determination of this application. The development would assist in supporting local services and facilities, as well as the construction industry. These economic considerations should also be given significant weight in determining this application.

6.26 These significant benefits must be weighed in respect of any identified harm arising from the development. In this instance, officers would consider that any impact of the development would be negligible and that all potential impacts can be successfully mitigated, resolved and solutions secured through conditions or through a carefully considered Reserved Matters application. As such, there is a clear and overriding weight of evidence supporting approval of this application which is considered to comply with the requirements of the relevant saved Unitary Development Plan Policies and the National Planning Policy Framework.

**RECOMMENDATION**

**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**

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

4. **A05 Plans and particulars of reserved matters**
5. **C01 Samples of external materials**
6. **L01 Foul/surface water drainage**
7. **L02 No surface water to connect to public system**
8. **L03 No drainage run-off to public system**
9. **I20 Scheme of surface water drainage**
10. **The recommendations set out in Section 6 the ecologist's report from Focus Ecology dated December 2013 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.**

**An appropriately qualified and experienced ecological clerk of works should 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 Herefordshire Unitary Development Plan.**

**To comply with Herefordshire Council's Policy NC8 and NC9 in relation to Nature Conservation and Biodiversity and to meet the requirements of the NPPF and the NERC Act 2006**

11. **CAZ Parking for Site Operatives**
12. **CBK Restriction of hours during construction**
13. **C88 Retention of trees and hedgerows**
14. **C90 Protection of trees / hedgerows**
15. **C97 Landscaping Scheme – implementation**
16. **CAL Access, turning area and parking**
17. **CB1 – Public rights of way**
- CB2 Covered and secure cycle parking provision**

**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. **I08 Section 278 Agreement**
3. **I07 Section 38 Agreement and Drainage Details**
4. **I06 Public rights of way affected**
5. **I45 Works within the highway**

Decision: .....

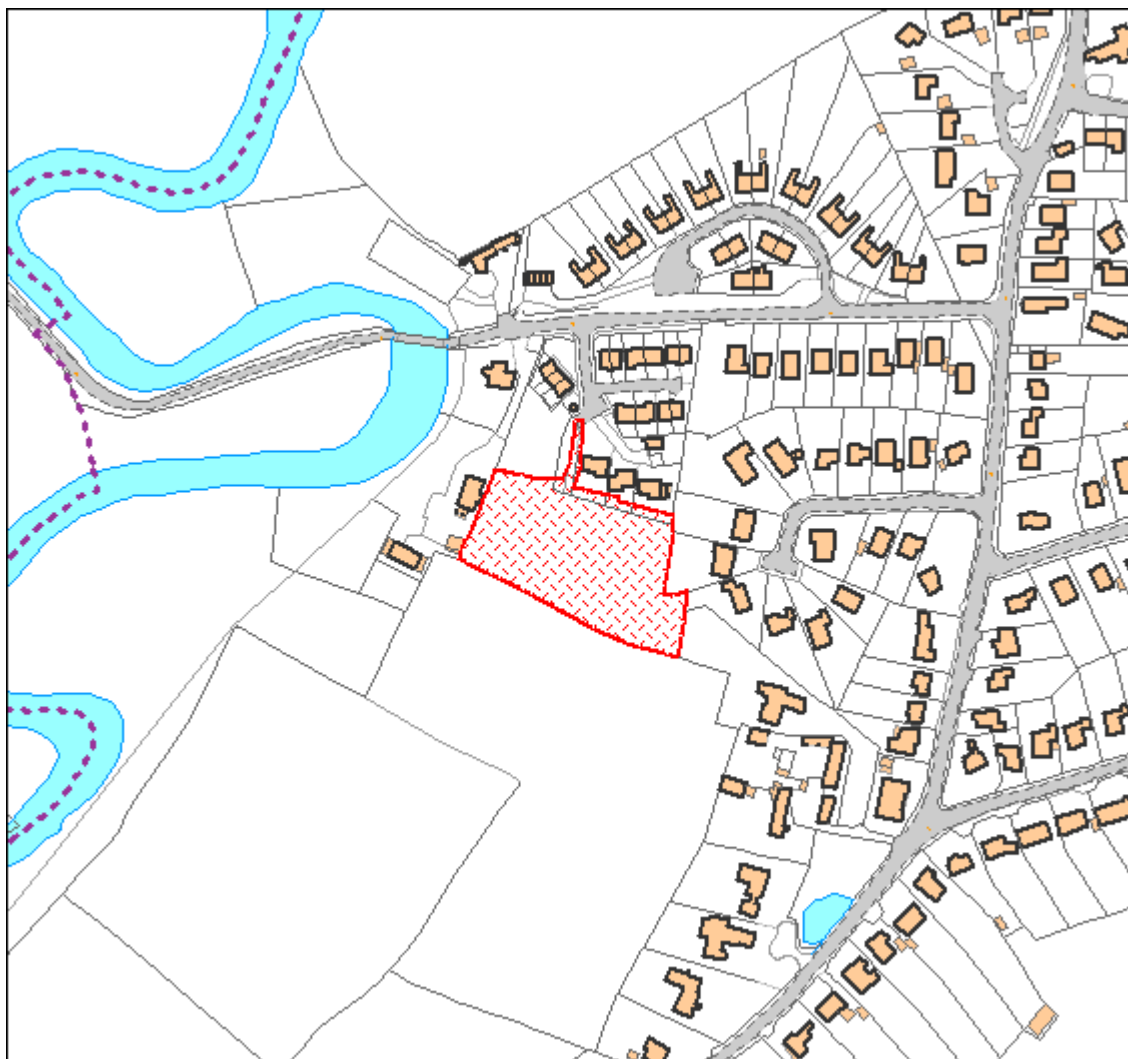
Notes: .....

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**Background Papers**

Internal departmental consultation replies.





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**APPLICATION NO:** 140164/O

**SITE ADDRESS :** LAND TO THE REAR OF PARADISE MEADOWS, MARDEN, HEREFORDSHIRE, HR1 3EN

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

**Section 106 Town and Country Planning Act 1990**

This Heads of Terms has been assessed against the adopted Supplementary Planning Document on Planning Obligations dated 1<sup>st</sup> April 2008. All contributions in respect of the residential development are assessed against general market units only.

**Planning application reference: P140164/O**

Site for the erection of 16 dwellings on land to the rear of Paradise Meadows, Marden, Herefordshire, HR1 3EN

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

<b>£1,891.00</b>	(index linked) for a 2 bedroom open market dwelling
<b>£3,106.00</b>	(index linked) for a 3 bedroom open market dwelling
<b>£5,273.00</b>	(index linked) for a 4+ bedroom open market dwelling

The contributions will provide for enhanced educational infrastructure at North Hereford Early Years, St Francis Xavier Primary School, St Mary's Roman Catholic (8% of contribution) Hereford Youth and the Special Education Needs Schools. The sum shall be paid on or before first occupation of the 1<sup>st</sup> open market dwellinghouse, and may be pooled with other contributions if appropriate.

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

<b>£1,966.00</b>	(index linked) for a 2 bedroom open market dwelling
<b>£2,949.00</b>	(index linked) for a 3 bedroom open market dwelling
<b>£3,932.00</b>	(index linked) for a 4+ bedroom open market dwelling

The contributions will provide for sustainable transport infrastructure to serve the development, which sum shall be paid on or before occupation of the 1<sup>st</sup> open market dwellinghouse and may be pooled with other contributions if appropriate.

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

<b>£965.00</b>	(index linked) for a 2 bedroom open market dwelling
<b>£1,640.00</b>	(index linked) for a 3 bedroom open market dwelling
<b>£2,219.00</b>	(index linked) for a 4 bedroom open market dwelling

The contribution would be used in accordance with the Play Facilities Strategy and Investment Plans and in consultation with the local Parish Council and community. There is one existing play facility in Marden at the recreation ground which is owned and maintained by the Parish Council. It is a medium size facility and serves the whole village. It has room to expand and is an elderly facility mostly in need of refurbishment, therefore investment is required. The sum shall be paid on or before occupation of the 1<sup>st</sup> open market dwellinghouse and may be pooled with other contributions if appropriate.

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

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

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

5. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of **£120.00** (index linked) per dwelling. The contribution will provide for waste reduction and recycling in Leominster. The sum shall be paid on or before occupation of the 1<sup>st</sup> open market dwelling, and may be pooled with other contributions if appropriate.
6. The developer covenants with Herefordshire Council that 35% (6 units) of the residential units shall be "Affordable Housing" which meets the criteria set out in policy H9 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework or any statutory replacement of those criteria and that policy including the Supplementary Planning Document on Planning Obligations (2008).
7. Of those 6 Affordable Housing units, at least 3 shall be made available for social rent with the remaining 3 being available for intermediate tenure occupation.
8. All the affordable housing units shall be completed and made available for occupation prior to the occupation of no more than 50% of the general market housing or in accordance with a phasing programme to be agreed in writing with Herefordshire Council.
9. The Affordable Housing Units must be let and managed or co-owned in accordance with the guidance issued by the Homes and Communities Agency (or successor agency) from time to time with the intention that the Affordable Housing Units shall at all times be used for the purposes of providing Affordable Housing to persons who are eligible in accordance with the allocation policies of the Registered Social Landlord; and satisfy the following requirements:-
  - 9.1 registered with Home Point at the time the Affordable Housing Unit becomes available for residential occupation; and
  - 9.2 satisfy the requirements of paragraph 12 of this schedule
10. The Affordable Housing Units must be advertised through Home Point and allocated in accordance with the Herefordshire Allocation Policy for occupation as a sole residence to a person or persons one of who has:-
  - 10.1 a local connection with the parish of Marden;
  - 10.2 in the event there being no person with a local connection to the above parish any other person ordinarily resident within the administrative area of Herefordshire Council who is eligible under the allocation policies of the Registered Social Landlord if the Registered Social Landlord can demonstrate to the Council that after 28 working days of any of the Affordable Housing Units becoming available for letting the Registered Social Landlord having made all reasonable efforts through the use of Home Point have found no suitable candidate under sub-paragraph 9.2 above
11. For the purposes of sub-paragraph 11.1 of this schedule 'local connection' means having a connection to one of the parishes specified above because that person:
  - 11.1 is or in the past was normally resident there; or
  - 11.2 is employed there; or
  - 11.3 has a family association there; or
  - 11.4 a proven need to give support to or receive support from family members; or
  - 11.5 because of special circumstances

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

12. The developer covenants with Herefordshire Council to construct the Affordable Housing Units to the Homes and Communities Agency 'Design and Quality Standards 2007' (or to a subsequent design and quality standards of the Homes and Communities Agency as are current at the date of construction) and to Joseph Rowntree Foundation 'Lifetime Homes' standards. Independent certification shall be provided prior to the commencement of the development and following occupation of the last dwelling confirming compliance with the required standard.
13. The developer covenants with Herefordshire Council to construct the Affordable Housing Units to Code Level 3 of the 'Code for Sustainable Homes – Setting the Standard in Sustainability for New Homes' or equivalent standard of carbon emission reduction, energy and water efficiency as may be agreed in writing with the local planning authority. Independent certification shall be provided prior to the commencement of the development and following occupation of the last dwelling confirming compliance with the required standard.
14. In the event that Herefordshire Council does not for any reason use the sum specified in paragraphs 1, 2, 3, 4, 5 and 6 above for the purposes specified in the agreement within 10 years of the date of this agreement, the Council shall repay to the developer the said sum or such part thereof, which has not been used by Herefordshire Council.
15. The sums referred to in paragraphs 1, 2, 3, 4, 5 and 6 above shall be linked to an appropriate index or indices selected by the Council with the intention that such sums will be adjusted according to any percentage increase in prices occurring between the date of the Section 106 Agreement and the date the sums are paid to the Council.
16. The developer covenants with Herefordshire Council to pay a surcharge of 2% of the total sum detailed in this Heads of Terms, as a contribution towards the cost of monitoring and enforcing the Section 106 Agreement. The sum shall be paid on or before the commencement of the development.
17. The developer shall pay to the Council on or before the completion of the Agreement, the reasonable legal costs incurred by Herefordshire Council in connection with the preparation and completion of the Agreement.

Yvonne Coleman  
Planning Obligations Manager



<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>27 AUGUST 2014</b>
<b>TITLE OF REPORT:</b>	<p><b>P140926/O - OUTLINE PROPOSAL FOR THE ERECTION OF 60 DWELLINGS (INCLUDING 21 AFFORDABLE HOUSES) AND A CHANGE OF USE OF LAND TO FORM COMMUNITY OPEN SPACE. AT LAND TO THE SOUTH OF A438, PARCEL NO. 0008 AND PART PARCEL NO.2308, BARTESTREE, HEREFORDSHIRE.</b></p> <p><b>For: INCA 2013 Ltd, per Mr Bernard Eacock, 1 Fine Street, Peterchurch, Herefordshire, HR2 0SN</b></p>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=140926&amp;search=140926">https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=140926&amp;search=140926</a>

**Date Received: 27 March 2014**

**Ward: Hagley**

**Grid Ref: 356089,241126**

**Expiry Date: 2 July 2014**

Local Member: Councillor DW Greenow

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

- 1.1 Outline planning permission with all matters bar access reserved is sought for the erection of up to sixty dwellings, including 35% affordable, the formation of two points of vehicular access onto the A438 and the formation of 0.83ha (2.05 acres) of community open space on land south of the A438 Hereford to Ledbury Road, Bartestree. The application thus seeks approval for the principle of development, with detailed matters of appearance, scale, landscaping and layout deferred until the Reserved Matters stage. The application site is outside but adjacent the settlement boundary for Bartestree as defined by the Unitary Development Plan (UDP), on a SHLAA 'minor constraints' site.
- 1.2 The site comprises three distinct parcels and extends to 4.37ha. The proposed residential development would occur in the two grazed fields located either side of the drive to the Grade II listed Hagley Court. The western parcel is broadly rectangular in shape except where two detached residential properties occupy a smaller rectangle in the northwest corner. It is proposed to transfer the ownership of 2.05 acres in the south-west corner of this parcel to the Parish Council as an extension to the existing village recreation area, which lies immediately to the west adjacent the village hall.
- 1.3 The boundary of this parcel with the A438 is formed by a hedgerow with narrow grass verge. This hedge is maintained at a height which allows views of the field from the houses on the north side of the road. The eastern boundary is formed by trees and dense shrubbery lining the driveway to Hagley Court, including some rare Lucombe Oaks. To the south is a poorly maintained and gappy hedge for approximately 60% of the boundary - with mature trees in the field to the south, including a distinctive row of Lombardy Poplars. West of this Stalls Farm

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

forms the boundary of the field where several barns have been converted into dwellings alongside the original farmhouse.

- 1.4 To the east of the drive to Hagley Court is the second open grassland field where residential development is proposed. It is accessed via a gate in the northeast corner where there are also three properties facing on to the plot; Nos 1 & 2 Haven Cottages and Figgynut Cottage. All three are set back 18m from the site boundary. There is a bus stop with shelter immediately east of the entrance to Hagley Court. However there is no footpath on the south side of the road and the nearest crossing point is west of the site, adjacent to the access to the village hall and sports ground. The northern boundary to this parcel is also formed by a maintained hedgerow, affording views across from existing residential properties on the north side of the A438.
- 1.5 To the immediate south of the eastern parcel is an area designated as a nature conservation area where no development will occur. This site supports several mature trees including Oak, Beech, Lime, Cedar and Oriental Plane. There is also a small overgrown pond in the northwest corner of this parkland area. All boundaries are hedged except the diagonal one adjacent to the drive to Hagley Court Cottage which is formed by a post and wire fence.
- 1.6 There are Public Footpaths along the eastern edge of the eastern parcel (Footpath LU29) and east to west across the southern end of the field (Footpath LU14). This also follows part of the southern boundary of Plot 002, immediately north of Stalls Farm.
- 1.7 Hagley Park/Court (Grade II Listed) lies to the immediate south of the plots and is an unregistered park and garden of local historic interest; the boundary of which passes through the retained conservation area. The house has been split into two dwellings and there are now several properties in the grounds, although the parkland landscape still provides a structure into which the additional properties are absorbed so that their effect on this landscape is limited. Opposite the site on the north side of the A438 both Hagley House and The New Inn, which stands opposite the entrance to the Hagley Court drive, are Grade II listed.
- 1.8 As above, the application site is outside but adjacent the UDP defined settlement boundary and the application is predicated on the lack of housing land supply. Although layout is now a Reserved Matter, the *illustrative* layout provided demonstrates an average density across the two net developable areas of 18 dwellings per hectare. On the western parcel, and in recognition of the well-spaced development to the north, the indicative layout shows 11 detached dwellings at 12 dwellings per hectare. The approach on the larger, eastern parcel is a higher density 33 dwellings per hectare.
- 1.9 The application is supported by the following:
  - Planning Statement
  - Flood Risk Assessment
  - Landscape Capacity Appraisal
  - Phase I Ecology Survey and further bat and newt surveys
  - Transport Assessment
  - Development Constraints Plan
- 1.10 Negotiation during the application phase has resulted in the further submission of tree constraints information, which plots notional root protection areas for the mature trees lining the drive to Hagley Court. The development constraints plan also demonstrates a development exclusion zone against boundary hedgerows; with the exception of that lining the road. The public rights of way are also maintained with appreciable buffers. A landscape detail demonstrating the proposed treatment of the A438 frontage has also been submitted and along with the aforementioned plans and information has been subject to further consultation. The road side landscape detail indicates 1.5m grass verges either side of a 2.0m

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footway, with tree planting within the 'inner' verge and a hedgerow to the rear. The Conservation Manager's (Landscape) response to this is set out below. This approach requires removal of the existing roadside hedgerow.

- 1.11 The application has been screened in accordance with the Environmental Impact Regulations 2011. It is concluded that the development does not require the submission of an environmental statement.
- 1.12 The application has also been screened in accordance with the Habitats Directive. It is concluded that subject to mains disposal of foul water, the development is unlikely to result in significant effects on the River Wye SAC.

## 2. Policies

### 2.1 National Planning Policy Framework 2012. In particular chapters:

Introduction	-	Achieving sustainable development
Chapter 4	-	Promoting sustainable communities
Chapter 6	-	Delivering a wide choice of high quality homes
Chapter 7	-	Requiring good design
Chapter 8	-	Promoting healthy communities
Chapter 11	-	Conserving and enhancing the natural environment
Chapter 12	-	Conserving and enhancing the historic environment

### 2.2 National Planning Practice Guidance 2014

### 2.3 Herefordshire Unitary Development Plan 2007

S1	-	Sustainable development
S2	-	Development requirements
S3	-	Housing
S7	-	Natural and historic heritage
DR1	-	Design
DR3	-	Movement
DR4	-	Environment
DR5	-	Planning obligations
DR7	-	Flood risk
H1	-	Hereford and the market towns: Settlement boundaries and established residential areas
H7	-	Housing in the open countryside outside settlements
H9	-	Affordable housing
H10	-	Rural exception housing
H13	-	Sustainable residential design
H15	-	Density
H19	-	Open space requirements
HBA4	-	Setting of listed buildings
HBA9	-	Protection of open areas and green spaces
T8	-	Road hierarchy
LA2	-	Landscape character and areas least resilient to change
LA3	-	Setting of settlements
LA4	-	Protection of historic parks and gardens
LA5	-	Protection of trees, woodlands and hedgerow
NC1	-	Biodiversity and development
NC6	-	biodiversity action plan priority habitats and species

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

NC7	-	Compensation for loss of biodiversity
ARCH3	-	Scheduled ancient monuments
ARCH6	-	Recording of archaeological remains
CF2	-	Foul drainage

## 2.4 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
OS1	–	Requirement for open space, sports and recreation facilities
OS2	–	Meeting open space, sports and recreation needs
MT1	–	Traffic management, highway safety and promoting active travel
LD1	–	Local distinctiveness
LD2	–	Landscape and townscape
LD3	–	Biodiversity and geodiversity
SD1	–	Sustainable design and energy efficiency
SD3	–	Sustainable water management and water resources
ID1	–	Infrastructure delivery

## 2.5 Neighbourhood Planning

Bartestree and Lugwardine Parish Council have designated a Neighbourhood Area under the Neighbourhood Planning (General) Regulations 2012. The Parish Council will prepare a Neighbourhood Development Plan for that area. There is no timescale for proposing/agreeing the content of the plan at this stage, but the plan must be in general conformity with the strategic content of the emerging Core Strategy.

## 2.6 Other Relevant National Guidance:

Planning for Growth	-	2011
Laying the Foundations	-	2011
Housing and Growth	-	2012

## 2.7 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

On site

### 3.1 DCCE2003/1716/F – Change of use of agricultural land to form village playing field: Approved 29<sup>th</sup> October 2003. This application relates to the western field.

Other relevant applications

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



- 3.2 140531/O – Erection of 30 dwellings, including 10 affordable on land at Quarry Field, Lugwardine. Refused 23<sup>rd</sup> April 2014. Appeal via written representations pending.
- 3.3 132536/F – Erection of 50 dwellings on land adjoining Williams Mead, Bartestree: Refused 12<sup>th</sup> March 2014.
- 3.4 140757/O – Erection of up to 51 dwellings on land east of Church House and west of the A438, Bartestree – As yet undetermined.

#### **4. Consultation Summary**

##### Statutory Consultations

- 4.1 Welsh Water: No objection subject to conditions

##### Internal Council Advice

- 4.2 Transportation Manager:

Further information and revisions has been received since my original comments, in respect of access and footway provision and it is further noted that layout has now been removed from this application and is now a reserved matter.

Clarification of the achievable visibility for the western junction (Drawing 13-079-05) indicates that visibility to the west is limited by the boundary of Hagley Croft and that 70m can be achieved to edge of road with in excess of 100m achievable to centreline. As the visibility splay passes through the area of the signalised crossing, where vehicles are restricted from overtaking by virtue of the zig- zag markings, a concession for measurement of the splay to centreline is acceptable in line with Manual for Streets and the achievable visibility is considered acceptable.

The revised access location shown on Drawing 13-079-04 for the access to the eastern parcel is considered acceptable.

The bus stop remains on carriageway which accords with the view of the Public Transport Manager in this respect.

In terms of proposed footway provision along the south side of A438, Drawing 13-079-04 indicates that the footway will now be in front of hedge with a grassed margin between road and footway and with a new hedge to the rear. The inclusion of a grassed margin is undesirable from an additional maintenance point of view and it is considered that the footway should abut the road, as elsewhere in the village. It is also considered that the removal of hedge and introduction of the footway will be likely to change the overall street scene and thus driver perception of the area, with a consequent vehicle speed reduction.

It is noted that the proposed footway will provide a link from the western parcel to the village hall and signalised crossing to the west.

Between the two development parcels a continuous footway at 2.0m wide cannot be achieved for a length of around 15 metres due to the third party ownership across the land forming the drive to Hagley Court. I understand that an approach to acquire the necessary land has been unsuccessful and that the ownership restriction would result in a maximum footway width of only 0.7-0.8m, being achievable across this length, which is very substandard and would barely accommodate a single pedestrian. Therefore crossing of the road would potentially be

necessary to access between the two sites, and this would include access from the western parcel to the bus stop. Whilst continuity of the footway would be the preferred option, there is good visibility in both directions along this stretch of road for pedestrians needing to cross A438 to negotiate the restriction, and with the guidelines of Paragraph 32 of the National Planning Policy Framework (NPPF) in mind, the lack of continuous footway does not result in severe residual highways impact, and therefore does not give grounds for refusal.

From the eastern parcel a footway is proposed to the east to the village stores and information has been submitted to confirm potential for the provision across the frontages of Figgynut Cottage and Haven Cottage to the frontage of the stores. Part of the frontage to the stores has previously been dedicated as highway to enable access from the stores to the signalised crossing and it should be ensured that continuity will be available to link to the route fronting Figgynut Cottage.

As previously stated in my original comments, the impact of the likely additional traffic from the development is considered acceptable on the network.

My recommendation is therefore for approval subject to conditions.

#### 4.3 Conservation Manager (Landscape): Objection

##### **1. GENERAL**

These comments are based on baseline landscape / environmental information and visits to the site and surrounding areas. Various plans and documents have been submitted with the application, including an indicative masterplan, a Design and Access Statement (DAS) and a 'Landscape Capacity Assessment'. An LVIA was requested at the pre-application stage. The landscape capacity assessment is fairly comprehensive and I agree broadly with the methodology adopted including the study area boundaries for the landscape character assessment (1 – 1.5km) and some of the viewpoints identified in the visual impact assessment, but I do not agree with the conclusions about the significance of effects, especially on landscape character. My comments are set out below. The proposals may need to be screened for EIA.

##### **2. SITE AND SURROUNDING AREA**

The site comprises two fields situated on the south side of the A438 in the village of Bartestree, in Lugwardine parish, some 3km from the north-eastern edge of Hereford City and c. 2.5km from the Wye Valley AONB at its closest point (near Prior's Frome). The site lies outside the settlement boundary, which runs north of the A438 opposite the site and for most of the length of the village apart from at the eastern end, where it turns southwards at the site's north-eastern corner, crossing the road and enclosing development down to Hagley Park housing estate. A short (c. 30m) section of that part of the site is adjacent to the settlement boundary, along the line of a PRoW (footpath LU29).

Bartestree and its neighbouring settlement Lugwardine are divided into three distinct settlements. In this part of the village the majority of built development is on the north side of the road and there is a mixture of house types reflecting the settlement's growth, from timber-framed cottages to modern housing estates. The capacity assessment notes "*the pattern of development in Bartestree where there is a stark contrast between the higher densities to the north of the A438 and the more open landscape to the south.*"

According to old maps, in the early to mid-19th century the area in which the site is situated was part of the extensive orchards and pasture beyond the city limits, which then lay some 5km to the south west beyond the river valley. The landscape around the village consisted mostly of large country houses, estates, ornamental parklands and farms. The application site fields have,

possibly since the 18th century, characterised the transition zone between the heart of the village and orchard to the north of the road and the historic parkland and setting of Hagley Court (originally built early 18th and extended / remodelled early 19th) to the south, and formed what is nowadays called a 'strategic gap' in the village.

The capacity assessment sets out a good baseline assessment of the site and surrounding area (see Figure 3 Local Landscape Type Sub-Units) which is useful for understanding the local landscape context and recognises the many local historic landscape elements and features (including several historic parklands - see section 4e below). It recognises that "*The whole is a high quality landscape edge to Bartestree...*" The hedges and mature trees on the site's boundaries, especially the roadside frontage hedge and along the access road to Hagley Court, make an important contribution to the character of both the village and the landscape to the south of the road.

The fields are currently down to grass / pasture. According to the landscape assessment, the western field extends to c. 1.85ha, and the eastern one to 2.45ha. The fields have a gentle slope from north to south. They are separated by the access road to Hagley Court. There are good, mostly intact, predominantly native hedges on all the boundaries including the access road apart from short sections of track / fencing / walling associated with Stalls Farm to the south west of the site, and a domestic boundary to the west. There are no free-standing trees on the site, but there are good, mature trees along the access road and significant mature ornamental parkland trees along the eastern section of the southern boundary. There is a small pond off-site in the orchard / parkland on this boundary but no visible watercourses on or near to the site.

Access to the fields is from Stalls Farm (western field) and the eastern field via a gate in its north-eastern corner. The site currently has a relatively limited visual envelope due to vegetation, local topography, and built form but is visible from several locations. Views and visual effects are described in more detail below.

### **3. PROPOSED DEVELOPMENT**

The proposal is to erect up to 60 dwellings in two parcels on each of the fields, with a large area of 'community open space' taking up about half of the westernmost field. The existing historic access to Hagley Court which runs between the fields would be retained. Each parcel would have its own access off the A438. Mitigation measures include the retention of all existing trees and hedgerows (apart from sections of the roadside frontage which will have to be removed for access), creation of a corridor for the footpath (LU29) on the eastern boundary of the eastern field and retention of all trees located within the area of retained land to the south of that field. There would also be 'biodiversity buffer zones'.

### **4. LANDSCAPE CHARACTER, DESIGNATIONS AND CONSTRAINTS**

**4a. Landscape Designations:** The site has no formal landscape designation. It lies in open countryside outside the settlement boundary. The boundary of the Wye Valley Area of Outstanding Natural Beauty (AONB) is approximately 2.5km to the south east, where there is a public viewpoint above Prior's Frome, and some 5km to the south at Holme Lacy.

**4b. Landscape Function and Value:** The area within which the site is situated functions as a small but important element within the natural and historic landscape of the wider area. The site itself lies at the heart of the village and forms an integral part of the traditionally open setting between the village and Hagley Court and Park (see below), reflecting its mixed historic and rural character and contributing positively to the villagescape. It is thus a locally important 'strategic gap' along the south side of the A438.

In terms of its contribution to both local and wider green infrastructure, the Council's Green Infrastructure Strategy (2010) indicates that the sites lie within District Strategic Corridor 2,

which links Hereford and Bromyard: *The corridor contains a few woodland, grassland and orchard sites of some significance and a number of historic settlements and buildings of note. However, The green infrastructure assets within this corridor are fragmented and disconnected.*

**4c. Landscape Sensitivity and Capacity:** The quality of the landscape within which the site lies is high, as it has retained many of its traditional historic parkland and other positive landscape characteristics. As such it is very sensitive to change of almost any sort including landuse and landcover, and in landscape terms, very limited if any capacity for residential development.

**4d. Landscape Character:** The site's landscape character type is Principal Settled Farmlands. These are settled agricultural landscapes of dispersed scattered farms, relic commons, and small villages and hamlets, and the key primary characteristic is hedgerows used for field boundaries; groups of trees and orchards are often associated with settlements. The landscape of the area is fairly typical of this description, although there are also several historic parklands and gardens in the locality. In terms of settlement pattern, HC's Landscape Character Assessment states: *'Low densities of individual dwellings would be acceptable as long as they are not sited close enough to coalesce into a prominent wayside settlement pattern. Additional housing in hamlets and villages should be modest in size in order to preserve the character of the original settlement'*.

The overall strategy for Principal Settled Farmlands is to *'conserve and enhance the unity of small to medium scale hedged fields'*. This is particularly relevant to the site as the field pattern is an important element in the local landscape; development could potentially result in the existing hedges' degradation or loss (see below). The area of influence of the site in the wider Herefordshire landscape is relatively limited although it does extend as far as the AONB (see below). Local landscape character is described in section 2 above. The quality of the local landscape is **High**.

**4e. Historic and Cultural Landscape:** The site lies in a landscape which was traditionally pastoral grazing and orchards, although previously the villages of Lugwardine and Bartestree lay along the route of Roman roads, and were mentioned in the Domesday Book. A Scheduled Ancient Monument (medieval moated site 60m south west of Old Court Farm) lies c. 850m north west of the site.

The post-medieval character of the local landscape is complex, and its quality and interest is reflected in the high number of Unregistered Historic Park and Gardens in the area, including Hagley Court on the site's southern boundary, Longworth beyond to the south, Lugwardine Court to the west, and Bartestree Court to the east.

Interestingly, the 1843 – 1893 maps show the application site fields as open and tree-less, although they are enclosed by orchards to the north (beyond the road), west and east. However they lie on either side of the mature tree- and hedge-lined historic access to Hagley Court, which lies some 100m south east of the site. Hagley Court is an early 18th / extended early 19th century, Grade II listed building lying in Hagley Park, an Unregistered Historic Park and Garden. The shape, size and symmetry of the application site fields suggest that they may have been cleared of orchards at that time to create a more open setting to the north for the house. Although the fields are not within the UHPG boundary, the access to Hagley Court is. The historic parkland boundary is contiguous with the site's southern boundary, and is visible from the road on the skyline.

As well as Hagley Court there are several other listed buildings scattered around the village; those closest to the site are opposite it (Hagley House and the distinctive New Inn, both Grade II).

Lugwardine Conservation Area's eastern boundary is approximately 650m west of the site.

**4f. Natural Landscape and Biodiversity:** The hedgerow boundaries and trees both on site and in adjacent areas are likely to provide good habitats for flora and fauna, although the ecological interest of the fields themselves is probably limited as they are improved or semi-improved grassland in agricultural use. There is a traditional orchard adjacent to the site's eastern boundary. Orchards are a vital part of the County's heritage, biodiversity and landscape character; they are Biodiversity Action Plan Biodiversity Habitats, and potentially an important resource.

According to the Applicant's ecological survey, the hedge on the west side of Hagley Court access road, and possibly the one on the east side, are 'Important' as defined by the Hedgerow Regulations.

The River Wye SAC (incorporating the River Lugg), Lugg and Lugg Meadows SSSIs lie over 1km from the site to the south west.

**4g. Visual and Public Amenity:** As a result of vegetation, local topography and built form, the site has a relatively limited visual envelope to the north, although it extends to the hills above Shucknall c. 3km to the north east. Within the northern envelope are the east – west approaches to the site along the A438 and residential properties along the road. The visual envelope is also quite limited to the west and east, although nearby properties are likely to have views of the site. To the south, the mature ornamental parkland trees and other vegetation on and around Hagley Park filter longer-distance views, but from the road along the site frontage, the wooded hills of the AONB are partially visible on the skyline in an arc from Backbury Hill in the south east to Holme Lacy in the south. Dinedor Camp is outside the AONB but is also visible to the south west. This means there is the potential for views of Bartestree from these places. There are views towards the site from Longworth Lane (c. 600m to the south east), but these views are currently screened by the parkland and other vegetation.

There are several PRoW north of the site and the A438, crossing the village and linking to the Three Choirs Way, a long-distance footpath which runs along the floor of the valley some 400m from the site's northern boundary. There is another footpath on the ridge above the valley (LU27) with further links to the Three Choirs Way.

As well as PRoW LU29 crossing the eastern side of the site, PRoW LU13 runs close to the eastern half of the site's southern boundary and joins LU14 which is within part of the site's south-western boundary. These footpaths connect to the wider footpath to the south west (and the River Wye) and the north east and are thus a valuable public amenity, contributing to the green infrastructure of the village.

## **5. POTENTIAL EFFECTS**

**5a. Landscape Designations:** The site is intervisible with parts of the AONB, which can be seen on the skyline from the road (part of the western field is visible from the viewing point at Prior's Frome). Views from these areas are likely to be partially screened by the mature vegetation at Hagley Park, but see section 5d below. However the distance of the site from the AONB and the fact that it would be seen in the context of the existing settlement behind means that it is unlikely to adversely affect the AONB's landscape character, visual or public amenity.

**5b. Landscape Function and Value:** The function and value of the site as an historic and strategic gap in the village would be lost. Adverse effects on landscape character are likely to reduce its value.

**5c. Landscape Sensitivity and Capacity to Absorb Development:** This is a good quality historic and rural landscape which is highly sensitive to change and in landscape terms, therefore, capacity for residential development limited.

**5d. Landscape Character:** In terms of effects on wider landscape character, because the site's area of influence in the Hereford landscape is relatively limited, the **adverse effects of development on wider landscape character are not likely to be significant**. However I do have concerns about the reliance placed on existing vegetation, especially south of the site which faces the AONB. This is considered in more detail in section 5d below.

In terms of local landscape character, development on the south side of the road in Bartestree is currently limited to the western and eastern ends of the village, and the application site fields were almost certainly cleared of orchards in the 18th or early 19th century to create a more open setting to the north for Hagley Court. The fields still characterise what was then the transition zone between the heart of the village and orchards to the north of the road and the historic parkland and setting of the house with views of the Wye Valley beyond. This land has always been what is nowadays called a 'strategic gap' in the village.

In terms of landscape / villagescape character and settlement pattern, the assessment notes *"the pattern of development in Bartestree where there is a stark contrast between the higher densities to the north of the A438 and the more open landscape to the south,"* although it goes on to conclude that *"...development of the plots could be an opportunity to create a more dispersed area of settlement on the southern edge of the village, thereby mitigating the visual effect of the straight edge north of the A438,"* This is predicted to result in a 'positive effect' on settlement form.

The capacity assessment recognises that *"The whole is a high quality landscape edge to Bartestree..."* but concludes that it is *"...one which has the capacity to absorb appropriately designed residential development without irretrievably damaging the existing landscape character."* It notes the change from 'Country House Parkland to Main Village', but predicts that the effect of this on the local and historic landscape will be 'neutral' because of the *"sympathetic layout for the proposed housing and intervening open spaces."*

It is also concluded that *"... the landscape elements on and around the Bartestree site could be enhanced to a degree which counteracts the majority of any negative landscape and visual effects."*

I do agree with the findings of the capacity assessment where they conclude that, apart from the roadside hedge, the historic elements and features themselves will not be directly affected by the proposals, and that mitigation / enhancement could potentially benefit local landscape character and biodiversity (in places), but I disagree with the assessment's conclusions about the effects. In my opinion:

- i. It is because this is a locally valuable, high quality and historic landscape that it is sensitive to change, and thus it has very limited capacity to accept development;
- ii. The proposals are likely to be damaging to local landscape character, and the proposed mitigation / enhancement – which could potentially result in localised benefits to landscape character elements such as hedges - cannot compensate for the overall adverse effects of the loss of the fields and their replacement with housing.
- iii. The proposals do not preserve the character of the original settlement; instead they would result in the coalescence of the existing built development which lies either side of the strategic / historic gap, and would form a prominent, linear wayside pattern (the frontage is over 300m long);
- iv. The development is not modest in size, and would significantly extend the village south of the road into open countryside, where built development is not characteristic;
- v. The proposals are not low density individual dwellings;

vi. I do not consider the visual effect of the 'straight edge north of the A438' to be an adverse one and see no reason why it would need to be mitigated;

vii. Built development would close off the view over the parkland which makes an important contribution to the historic and landscape character of the village; it would also result in the loss of distant views towards the AONB to the south east and south, and other long-distance views to the south west;

viii. As well as the adverse effect of the change in character from historic / rural to urban, there are likely to be indirect adverse effects on landscape elements and features; these can arise from the loss and erosion of habitats and features such as hedges as a result of disturbance from increased human activity, noise, lighting, cats and dogs etc., and future residents replacing garden boundary hedges with ornamental plants or fences, or seeking to remove mature trees on their boundaries. Such loss and erosion leads to adverse effects on landscape character and visual amenity, often cumulatively over a wider area. There is evidence of this happening in Bartestree;

ix. In addition, cumulative effects with other similar proposed / approved developments in the area need to be considered (as far as I can see they have not been assessed). There are proposals for new residential development in and on the outskirts of the village, and these have already raised concerns as they would result in coalescence along the A438, close strategic gaps and generally give rise to adverse effects on landscape / historic landscape / villagescape character, heritage assets, visual and public amenity.

The loss of these two fields, the permanent change in character of the site from historic / rural to urban, combined with the other factors set out here are unacceptable in landscape terms. The proposals would almost certainly result in a **significant adverse effect on local landscape character** which **could not be mitigated or compensated for**, and these adverse effects could be exacerbated when taken in-combination with other developments proposed in the area. My opinion would be the same with a different layout, and even if only one of the fields was proposed for development.

**5e. Historic and Cultural Landscape:** The historic landscape here contributes significantly to local landscape character. Localised adverse effects on historic landscape character are likely to result from the development of the fields, and possibly also on the setting of Hagley Park, although in terms of effects on elements and features, they will probably be indirect rather than direct. The development is unlikely to adversely affect the setting of the Conservation Area or the SAM as they are a good distance apart and unlikely to be intervisible, but the settings of the existing listed buildings opposite the site are likely to be compromised. The significance of these effects needs to be assessed.

**5f. Natural Landscape and Biodiversity: Potential adverse effects** (damage and / or loss of habitat) on hedges and mature boundary vegetation, especially in the long term but also during construction (see 5e(viii) above). **Potential benefits** in terms of restoration, conservation and enhancement of habitats and creation of new ones, especially with links to the wider GI network. Both can directly and indirectly affect landscape character and visual / public amenity.

The DAS states that "*Further layout considerations include a desire to provide potential future access into the land located to the east (so as not to sterilise this land from future development/settlement expansion).*" The land to the east includes a traditional orchard (BAP Priority Habitat) and it is not appropriate for development either.

It is very unlikely that there would be any adverse effects on the amenity of the River Lugg SSSI complex.

**5g. Visual and Public Amenity:** As set out above, the site currently has a relatively limited visual envelope in many directions, and the clearest views are from near-distance viewpoints. The capacity assessment predicts **significant adverse visual effects** on certain receptors,

mainly people living in residential properties opposite the site, although in my opinion users of the road and PRsoW especially on or close to the site will also experience significant adverse effects. The assessment concludes that *“Mitigation measures will assist in reducing adverse effects for these properties. The overall visual effect, taking into account both long and near views, is considered to be neutral.”* I do not think that mitigation / enhancement would adequately compensate for the loss of, and change to these views, and disagree that the residual effects would only be neutral.

Of particular concern is the reliance placed on the mature trees in Hagley Park to screen views from the south east, south and south west. Some of these trees are clearly reaching the end of their useful lives from a landscape perspective, with stag-heading in crowns visible. Increasing numbers of trees in Britain are being affected by pests and diseases (elm, ash, oak, horse chestnut, alder, pine, spruce, fruit etc.). I accept that none of this is possible for the applicant to control, but it does mean that one cannot rely 100% on vegetation to screen views in the future.

Lighting could adversely affect the visual amenity of people living in properties close to the site. During the construction period there will be localised adverse landscape, visual and public amenity effects generally, and these could be significant adverse for receptors in nearby properties and users of the footpaths on and adjacent to the site. Cumulative visual effects arising from other similar developments in the area are also possible, as set out in section 5e(ix) above.

## **6. CONCLUSIONS**

From a landscape-related perspective, I object to the principle of development on this site. The key issues below are summarised from the comments above:

- i. The proposed development is not likely to adversely affect the character of the wider Herefordshire landscape or its visual amenity (for example views from the AONB); however this is a good quality historic and rural landscape which is highly sensitive to change and in landscape terms, therefore, capacity for residential development limited;
- ii. The proposals are likely to be highly damaging to local landscape character, visual and public amenity, and the proposed mitigation / enhancement cannot compensate for the overall adverse effects;
- iii. The proposals do not preserve the character of the original settlement; instead they would result in the coalescence of existing built development either side of the strategic / historic gap and form a prominent wayside pattern;
- iv. The development is not modest in size, and would significantly extend the village south of the road, where built development is not characteristic;
- v. The proposals are not low density individual dwellings;
- vi. Built development would close off the view over the parkland which makes an important contribution to the historic and landscape character of the village;
- vii. Great reliance is placed on screening by vegetation the long-term effectiveness of which cannot be guaranteed;
- viii. In addition, cumulative effects with other similar proposed / approved developments in the area (on landscape / historic landscape / villagescape character, heritage assets, visual and public amenity etc.) are possible and need to be considered;
- ix. It has not been demonstrated that the proposed development is sustainable as defined in paras. 1 and 2 of UDP Policy S1 Sustainable Development nor that it fulfils the requirements in Policy S2 Development requirements;



- x. The development does not comply with Policy DR1 Design as the effects on 'townscape and landscape character and topography, including the impact of the proposal on urban vistas, longer distance views and ridgelines' could be significant adverse on a local level;
- xi. For the reasons set out above the development is contrary to Landscape Policies LA2 Landscape character, LA3 Setting of settlements, and LA4 Protection of Historic Gardens. It has not been demonstrated that Policy LA5 Protection of trees, woodland and hedgerows can be complied with as the potential for long-term damage to / erosion of boundary hedges and other vegetation has not been considered nor effective mitigation proposed;
- xii. The proposed development is likely to give rise to adverse impacts on the setting of nearby listed buildings which is contrary to Policy HBA4 Setting of listed buildings;
- xiii. My opinion would be the same with a different layout, and even if only one of the fields was proposed for development.

### **Comments received in relation to the revised illustrative layout**

These additional comments stem from a site meeting with the applicant's landscape consultant and the consequent submission of additional plans. Although the proposals do address some of the earlier stated concerns, the objection to the principle of development is maintained. Specifically, the treatment of the road frontage represents what was discussed on site, and although I would prefer the corridor to be a metre or so wider, the concept of the grass verges, footway, avenue of trees and hedge could work well, subject to careful attention to detail (especially choice of tree species). It would be beneficial, in the event of planning permission being granted, if this option was to be discussed with the local community through public consultation. This will give people further opportunity to have a say in what the future character of the village should be and how this could be reflected along the road, taking into account the fact that this is an historic and important gateway to Hereford.

#### **4.4 Conservation Manager (Historic Buildings): Objection**

The application site lies to the south of the A438 in Bartestree and is split into two parcels of land either side of the access drive to the early 18<sup>th</sup> century grade II listed Hagley Court and its unregistered parkland. To the north of the A438, immediately opposite the western field, are two further grade II listed buildings, Hagley House and The New Inn dating from early and mid-late 19<sup>th</sup> century respectively. Given the close proximity of these three listed buildings an assessment of their settings and the impact of the proposals upon them is required.

The documentation submitted with the application makes sparse mention of the three listed buildings identified above. The housing density surrounding Hagley House and The New Inn is noted as being approximately 7dph which gives them a spacious immediate setting. This spaciousness is combined with the open field to the front of both buildings, across the road, which reinforces their historically rural setting.

Hagley Court and its parkland is clearly visible from the A438, even though the actual buildings of the historic complex are obscured by trees and landscaping. The driveway to the Court splits the application site into two parts and the proposal shows that the drive would remain independent of any development to either side. Historic maps show that fields either side of the main road were given over to orchards but it is notable that the two fields of the application are retained as clear grazing or possibly arable farming. This striking difference in use very possibly indicates that these fields were kept open in order to add to the sense of arrival at Hagley Court and to enhance the setting of the buildings and the formal parkland.

Clearly the development of the application fields for residential purposes would remove that open setting for the Hagley Court complex. It is considered that this would be harmful to the

setting of the complex and its parkland, even if the immediate setting of the Court within its parkland is not directly affected. It is considered that the proposal would be contrary to Policy HBA4, setting of Listed Buildings.

The proposal would also adversely affect the setting of Hagley House and its neighbour The New Inn. The setting currently has relatively spacious, edge-of-village character and appearance which is reinforced by the rural outlook from the site but also is part of the setting when travelling along the A438 in either direction. To have the southern side of the A438 developed in a similar way to the north side would fundamentally change the character and appearance of this edge-of-village location to a much more suburban character. This is not considered to be acceptable and would be contrary to HBA4, Setting of Listed Buildings.

**Conservation Manager (Ecology):** No objection subject to conditions:

Having read the Phase 1 Habitat report and the subsequent reports for bats and great crested newt, I am content with the findings and recommendations. The pond on the site is not conducive to great crested newt breeding but renovating the pond will be part of site ecological enhancement. In addition, the hedgerows are important to bats and the proposals to retain and enhance what is already present, is welcome. Despite assurances about a protocol for reptiles, I would like to see dedicated reptile surveys carried out in the autumn period prior to any site development.

**Conservation Manager (Archaeology):** Although this is a large site in a prominent location in the village, there are no records of any archaeological heritage assets on the development area or immediately adjacent to it. Furthermore, the nature of the site location/ fields involved leads me to believe that there is little likelihood of any undiscovered below-ground remains being present on the site. Given the above, it would seem that the choice of site is a good one from the archaeological point of view. Accordingly, I have no objections.

#### 4.5 Land Drainage Engineer: No objection

We do not object to the proposed development on flood risk and drainage grounds. However, all new drainage systems for new developments must meet the new National Standards for Sustainable Drainage (currently in draft) and will require approval from the Lead Local Flood Authority (Herefordshire Council). Therefore, should the Council be minded to grant outline planning permission, we recommend that the submission and approval of detailed proposals for the disposal of foul water and surface water runoff from the development is included within any reserved matters associated with the permission. The detailed drainage proposals should include:

- Provision of a detailed drainage strategy that demonstrates that opportunities for the use of SUDS features have been maximised, where possible, including use of infiltration techniques and on-ground conveyance and storage features;
- Evidence that the Applicant has sought and agreed permissions to discharge foul water and surface water runoff from the site with the relevant authorities;
- Evidence that the Applicant has sought and agreed allowable discharge rates for the disposal of foul water and surface water runoff from the site with the relevant authorities;
- Evidence that the Applicant is providing sufficient on-site attenuation storage to ensure that site-generated surface water runoff is controlled and limited to agreed discharge rates for all storm events up to and including the 1 in 100 year rainfall event, with a 30% increase in rainfall intensity to allow for the effects of future climate change;
- Demonstration that appropriate pollution control measures are in place prior to discharge.

- 4.6 NHS Property Services: I write to confirm that we have reviewed the primary medical care infrastructure capacity and we have no concerns about the impact of the above planning application.
- 4.7 Housing Delivery Officer: In principle I support the application. There is a need for affordable housing in Bartestree. The mix of 1, 2 and 3 bed units will help in meeting this need. The units will need to be built to the Homes and Communities Design and Quality standard, Lifetime Homes and Code level 3 of the Code for Sustainable Home with local connection to Bartestree and Lugwardine.
- 4.8 Parks & Countryside: No objection

**POS/recreation requirements: UDP Policies H19 and RST3:** A development 60 houses at an average occupancy of 2.3 (total 138) in accordance with UDP policies H19 and RST3 is required to provide POS and play provision as follows:

POS (0.4 ha per 1000 population) 0.05ha

Play area provision including formal and informal e.g kick-about area (0.8 ha per 1000 population) 0.1ha

**Total 0.15ha**

**Site Layout Plan/Planning Statement:** In support of the policy requirements, it is noted that the site plan shows a very large area of land to be offered as community open space, originally on a lease agreement, for recreational and sports use. It is now understood that the land will be transferred to the Parish Council. It is in a good location and makes a natural extension to the existing recreation and sports provision at the village hall and access to ancillary facilities. It is assumed that the Parish Council has been consulted and they can demonstrate a need for this. The applicant acknowledges that reference was made in the 2008 Parish Plan for the need for additional playing space and sports pitches, but to date the Neighbourhood Plan hasn't been produced to substantiate this requirement. In the absence of a completed Investment Plan for outdoor sports, it is noted in the Playing Pitch Assessment for Hereford that the existing sports facilities at Bartestree Village Hall, which provide 1 x senior pitch and 1 x cricket, are of a good quality but both these pitches are already extensively used by the local cricket and football club, both of which encourage junior teams and field more than 1 team: Bartestree & Lugwardine Cricket Club: 4 x juniors, Bartestree Football Club, 2 seniors, 9 juniors/minis some of which use senior size pitches. With growth proposed in Bartestree, pressure on these pitches may increase, thus supporting the need for additional facilities, particularly for junior teams which is corroborated by the Playing Pitch Assessment for the Hereford Area.

A development of this size should also provide either on or off site children's play provision. It is noted that the applicant makes reference to this land being used for play: provision of formal play equipment on land with a 30 year life span may not be appropriate in meeting policy requirements, although this is potentially the life of the equipment. Alternatively as the village has two existing play areas, it may be preferable to seek an off-site contribution towards the existing facility at the village hall owned and maintained by the Parish Council which is adjacent to this land. It has room to expand and further develop as the main "local neighbourhood" facility in the village and would benefit from additional equipment for older children in particular.

- 4.9 Public Rights of Way Manager:

Public footpaths LU29 and LU14 are correctly marked on plans. LU14 will pass through the Community Open Space, and LU29 has been given a width of 5m. We are happy with both these measures and therefore do not object to the proposal.

- 4.10 West Mercia Police: No objection, but consideration should be given to achieving Secure by Design accreditation at the detailed design stage.

4.11 Schools Capital and Investment Manager: Comments awaited

## 5. Representations

5.1 Bartestree & Lugwardine Parish Council: Objection

**Resolved:** The Parish Council agreed not to support this planning application with 8 of the 9 Councillors present voting against (the remaining Councillor was unable to vote as he had not been in attendance for the whole of the meeting) The Parish Council wish to submit the following comments:

A considerable number of the residents in Bartestree and Lugwardine are of the opinion that the villages would lose their current rural feel if further large developments were to take place beyond the considerable number that have taken place in the previous two plan periods. The group parish currently holds the position of the third largest village in Herefordshire. They are also incensed that Herefordshire Council has failed to protect them from the present/imminent development by not being able to demonstrate the five-year housing supply required by the National Planning Policy Framework and thus rendering the saved Unitary Development Plan policies H1 and H4 ineffective.

### **Location/Impact on Village**

The proposed development site consists of 2 fields, which are the rural heart of Bartestree and define it as a village. If 60 houses are built on the site, Bartestree will become a suburb and lose its rural character. The centre of the village will be adversely affected and the development would not enhance it at all. The long distance views over the fields are superb and will be lost to the village if the development goes ahead. Currently sheep and horses are seen grazing in the fields, which add to the character of the rural settlement.

The proposed development abuts historic parkland and gardens; there is a listed building next to it and 3 Public Rights of Way through the site. There is also a long drive of unique evergreen oak trees, which add to the character of the area. Historically almost all development is to the north of the A438 and it is strongly believed that the pattern should stay that way, leaving the south open and green. Any use of the fields should be for the community not for a large development. Most of the past development and the primary school are on the same (north) side of the A438.

### **Listed Building**

In order to allow visibility for access to and from the site, 3 large areas of hedgerow will have to be removed. Hedges will be removed from the opposite boundary of a Grade 2 listed property, Hagley House. Across from that building will be a 5 bedroom new property, which will overlook the original building. The owners of the listed building will be unable to screen the new development due to the regulations that apply and therefore the development would be detrimental to the setting around the building.

### **Neighbourhood Development Plan (NDP)**

If this development is approved it will have a huge impact on the NDP. The NDP Steering Group was set up by the Parish Council and a Questionnaire is to be circulated to the parishioners soon, which will result in a draft plan being prepared within a couple of months. Whilst the Plan may not be adopted yet, it will reflect the wishes of the residents. If the development goes ahead it will take no account of the work done by the Steering Group or the visions of the village. The Bartestree & Lugwardine Action Group used a photograph of one of the fields on their brochure. This resulted in 825 people signing a Petition in agreement with their policy that the villagers should have some say in where development should be.

### **Water and Sewerage**

Although Welsh Water will have the final say, there are concerns that the current infrastructure would not support the development in terms of water supply, sewerage and surface water disposal. Correspondence with Welsh Water in relation to other proposed housing developments in the Group parish would indicate that those responsible for giving the go-ahead for these schemes are not fully cognisant of the many difficulties faced by residents in terms of low water pressure, sewage blockages and overflows. Indeed the Parish Council is in the process of arranging a meeting with Welsh Water to discuss the increasing concerns of the villagers in connection with these problems given the barrage of planning applications they are currently faced with.

Significant parts of this application lack detail, in particular how surface water and drainage is to be dealt with. One resident has a well only 25 metres from the proposed development and he is concerned that his water supply will be greatly affected. Another resident (Coach House) has had significant issues with water supply and has been without water for weeks at a time. The owner of Stalls Farm has problems with surface water where heavy rain already flows through his barn. His fields already suffer from 'pooling' and a further 60 dwellings will add to the problem.

### **Traffic/Highway Safety**

The Traffic Manager's [original] report rejects the application and the Parish Council endorses all the points made in that report. The high volume of traffic using the A438 travels at speeds regularly in excess of the 30mph speed limit. In 2013 the excessive speeds were confirmed by the West Mercia Safer Roads Partnership from the data collected from the Speed Indicator Devices located throughout the village. This resulted in the A438 through Lugwardine and Bartestree being designated an area of concern and triggered the implementation of a speed camera in the area.

Residents are already concerned about the volume of traffic using the A438 in both directions between 7.30am – 9.30am on weekdays. This varies from 900 to 1200 vehicles daily in that period and any increase in that number as a result of a building development would be of further concern.

Residents who live in properties along the nearby section of the A438, or joining it from side roads, already experience delays and risk when attempting to exit their driveways on to the main road. With a further 60 dwellings it is not unreasonable to estimate another 120 vehicles that will need to join the A438 at peak times. With another 2 proposed junctions, close together, onto an already fast and busy road this can only add to existing problems.

Pedestrian access is poor. Any children attending the local schools (if they can find a place) will have to cross the road some 50 yards in the opposite direction from where they are headed. This is most likely to result in them trying to cross a dangerous busy road without using the pedestrian crossing. Any children using the local secondary school are already forced to cross in 2 different places, as there is no continuous footpath.

### **Capacity**

Given the number of proposed dwellings, there will be a large number of children of varying educational ages who will need to travel to school. There is little or no provision for the range of education that will be required, which will result in there being a greater volume of traffic ferrying them to and from alternative schools.

### **Nature of Development**

There is little demand for this number of houses in Bartestree. The purchasers would not be employed locally but in Hereford or beyond. The needs of the people of the village have not been addressed. There are no houses with workshop space for studios or cottage industry, as would be appropriate in a rural setting to allow for local self-employment. The proposed houses

are in the main large executive type houses. The plans indicate that the 2 fields would accommodate diverse housing. The western field yielding large executive-type houses and the eastern field, smaller semis and 'affordable housing'. The fields are not even linked. There are no facilities for a play area for the additional children that would be brought to the new development. The existing facilities are well used by the community now but there are concerns that these would not be sufficient to serve the volume that 60 new houses would produce.

### **Community Space**

The offer of the playing field is considered to be a symbolic gesture. The ground is not particularly flat or good. It is believed that access to the space would be across a private lane. The size of the ground would only accommodate a junior football pitch and nothing else. It would require a massive investment to make it playable. The surrounding area would be large executive houses and therefore there would be potential conflict with residents should balls land on their property. There are no facilities for parking should a pitch be created and this would lead to issues with more people (parents of children using this pitch) seeking to park at the Village Hall. This is highly likely to result in conflict over parking.

The 'woodland area' is a small and fairly unkempt copse. Adjoining the area is a number of houses and the area is likely to become a place where teenagers meet and hang out. A similar area fell foul of this some time ago near Wilcroft Park where antisocial behavior discouraged parents from allowing small children to go there and litter in the form of cigarette butts, condoms and crisp packets etc accumulated.

The suggestion that the "community land" be leased to the Parish Council for a period of 50 years is not attractive. Even at a low rent, the cost of managing the work to convert the area would be excessive, not taking into account the need for volunteers to see the project through. Given the huge profits that would be gained should this application be granted, it is considered that should the application go ahead, the developers should sell the land for a nominal sum rather than lease it and also increase the area they are offering.

### **Cumulative Effect**

The residents of Bartestree and Lugwardine, as well as the Parish Council, feel that it would be wholly unreasonable not to take into consideration the cumulative impact of this application. It should be considered in light of the fact that there are currently 3 applications pending. If these are approved on Appeal or at the Planning Committee then there will be 190 new dwellings in the village.

If each application is only considered on its merits without looking at the cumulative impact then the problems that will arise regarding the traffic, school facilities, water and sewage will be immense and could not be reversed.

If this application were approved then the existing Playing Fields would not be able to expand in future for community space, as there is no other flat land nearby. Historically, enquiries have been made on several occasions to acquire this land for community use with the aim of increasing the facilities and recreational area around the Village Hall and Playing Fields and it is hoped that one day these can come to fruition. If this application is approved then there will be little or no space available for future projects. The majority of the residents feel passionately that the green fields of the village should be kept green, possibly for future recreation. Once they have gone they can never be replaced and the village as they know it will disappear and the area will turn into suburbia.

5.2 68 letters of objection have been received. The content is summarised below

- The scale of development sought in terms of number will dominate and transform the notion of village life.

- Other large-scale developments have and are likely to come forward, transforming the feel of the village, resulting in coalescence with Lugwardine and turning the village into nothing more than a suburb of Hereford;
- The pressure brought to bear by the response to the Council's apparent housing land supply issue is wholly prejudicial to the Parish's Neighbourhood Plan. A steering group has been enacted. It would be fundamentally wrong and contrary to NPPF paragraph 17 to take decisions on large-scale proposals when an enormous amount of work in preparation of the neighbourhood plan has already been undertaken;
- The Draft Local Plan – Core Strategy 2013-2031 envisages proportionate growth of 118 dwellings over the plan period. This equates to 7/8 a year. Parishioners are supportive of a staged and progressive approach, utilising the redevelopment of brownfield sites rather than a headlong rush to meet a shortfall that only exists because of the planning policy position;
- At various times existing dwellings suffer from reductions in water pressure. Adding 60 dwellings will exacerbate this issue, which is of significant concern in the context of other large-scale proposals in the locality. Assurances given by the developer and Welsh Water are not sufficient;
- The road is designated a 'road for concern' by the West Mercia Safe Roads Partnership and speed measurements reveal that a high proportion of vehicles break the 30mph speed limit. Adding two junctions on the south side of the A438 in close proximity to busy junctions on the north side of the road is liable to cause congestion and accidents;
- The demand for housing does not derive from the existing local community. These houses will become the preserve of executives who work elsewhere and commute long distances to work. This is not representative of sustainable development;
- There is no continuous pavement link between Bartestree and Lugwardine. This is particularly relevant given the developer's assertion that the site is well served by footpaths. School children walking to the high school in Lugwardine have to cross the A438 at two points. Pedestrians coming to the primary school in Bartestree from Lugwardine have to do the same;
- The development will result in the loss of privacy for residents living opposite and nearby, some of whom cannot erect or plant screens because their properties are listed;
- The schools are at capacity and without the ability to expand on their sites. This has been confirmed by the head-teacher of Lugwardine Primary School (located in Bartestree);
- The submitted layout indicates a density on the eastern parcel in particular which is out of keeping with the local pattern of development;
- The development of these two fields will rip the heart out of the village. It is a long held aspiration that the western parcel at least be safeguarded for community use and planning permission was obtained for a change of use in 2003. Only the bank's unrealistic demands prevented this permission from being implemented;
- The complete or even partial loss of the roadside hedge would be detrimental to green infrastructure and damaging to the character of the village;
- The infrastructure locally does not support large-scale housing. There are no local employment opportunities, medical facilities and only one comparatively modest convenience store;
- Drainage is a significant constraint. The existing mains sewer is considered over capacity, as is evidenced by frequent flooding locally;
- The development will irrevocably change the character of the village. Development on the south side of the main road is limited to sporadic, historic properties;
- The development will result in the loss of an outstanding view southwards towards the AONB;
- The historical and cultural narrative of the villages would be better served through smaller development;
- The development delivers nothing for the existing community. The proposed community open space is too small and not of use to anybody who doesn't play football;
- The proposed dwellings do not meet the needs of the elderly. There are no bungalows;

- The development would result in the loss of agricultural land at a time when we should be producing more food for ourselves;
- The cumulative impact of this and other proposed development should be considered in relation to the impact upon existing residents, infrastructure and traffic congestion;
- The surface water drainage strategy is not fully detailed and liable to cause pollution of private water supplies;
- There are no allotments or public open space and the site does not enjoy good links to existing facilities;
- The bus service and pedestrian provision is poor and it is likely that residents will use the private car for even short, local trips;
- The development is effectively portrayed as the least bad of the current proposals. This is not good enough;
- The impacts of the development upon bat flight paths and great crested newt habitats are underestimated. Great crested newts are known to inhabit ponds locally;
- The detailed landscape proposal requires removal of the roadside hedgerow, which in itself is contradictory to the original Landscape Character Appraisal and damaging to landscape character;
- The construction phase will create noise, dust and traffic chaos for existing residents.

5.3 Two letters of support have been received. These welcome the provision of additional housing and consider the proposal would deliver a reasonable housing mix to meet a need within the parish.

5.4 The agent has responded to the Parish Council objection and specifically the concerns expressed in relation to the leasing arrangements, scale, funding, maintenance and future management of the proposed 0.83ha (2.05 acre) community open space. It is confirmed that rather than lease the ground for a nominal rent, the freehold title of the land would be transferred to the Parish Council and that the land be cleared and ready for use as part of the development. This would include provision of all landscaping and planting surrounding the area (as may be agreed as part of the Reserved Matters application) including removal/relocation of power lines as necessary. Access points and associated gateways will also be provided subject to approval as part of the detailed submission. In this sense, the area will be ready for use as Community Open Space when it is handed over. It is also confirmed that the applicants *do not seek control or prescription over what the space is specifically used for at any given time - they are handing its use over with the only condition being that it is made available for unencumbered access to ALL the community and associated groups/sports clubs as may be required.*

With regard to ongoing upkeep/management, the current Community Land/Facilities surrounding the Village Hall, and arrangements for use, are controlled by the Parish Council, with arrangements for the sports pitches catered for via a sub-lease to the Playing Fields Association. Under these arrangements the sports clubs carry out maintenance (grass cutting, pitch marking etc) and pay a monthly rent to the Parish Council for the use of the land. The applicants see no reason why this pre-existing management regime cannot be extended to the land proposed as part of this application. Certainly, during pre-application community consultation, it was indicated to us that the same management/maintenance regime would be applied to the land on offer.

With respect to sports use, it is recognised by all that there is a requirement specifically for use by the football Club as the current sports pitches are over-intensively used at the expense of surface quality/suitability. However, the estimated usage of the proposed Community Land specifically for football is only 4-5 hours per week, 8 months of the year. Therefore, the land would remain available to all, for general use and other activities, for the vast majority of the year.



The area offered is of sufficient size to accommodate a full sized football pitch if this is what is required; as confirmed by the attached letter from the Herefordshire Football Association. The total area of a suitable full size football pitch would be approximately 4500m<sup>2</sup>, with the total area identified for community use being over 8000m<sup>2</sup>. A letter of support from the Hereford Football Association confirms in principle that the area identified would be favourably considered for grant funding to provide/develop a suitable pitch including provision of suitable ball stop netting should this be necessary. If such netting was provided, and to avoid conflicts associated with straying balls etc., the applicants envisage a form of retractable ball-stop netting in order to avoid visual conflict and to protect against visual intrusion - again subject to detailed planning approval as may be required. The applicants have confirmed they would also be willing to underwrite such costs (or provide the works and equipment) to cover the initial development of the football pitch (including provision ball stop netting) in the event that suitable grant funding is not forthcoming, or if the required work has not been carried out within 12 months of commencement of development. The applicants consider this a genuine and tangible community benefit.

5.5 Hereford & Worcester Gardens Trust: Objection, extracts of which are reproduced below:

Although there has been considerable development, behind the historic building line, on the north side of the A438, the south side of the road, either side of the drive to Hagley Park, remains conspicuously rural. The two fields of permanent pasture - the site of the proposed housing development - provide a foreground both for the listed buildings on the north of the road and the parkland around Hagley, which stands out prominently in the near distance. A notable landscape feature is the drive to Hagley Park, which bisects the development area and is lined with an avenue of Holm oaks (*Quercus ilex*) - some of the best full-grown examples of this species in Herefordshire. The drive is entered via a fine cast iron gate of lattice design, with classical columns as piers, dating from the Regency era e.g. c.1820-30.

The Hereford and Worcester Gardens Trust believes that the open aspect of the 'Piece at Hagley' should be preserved as an essential element in the setting of upper Lugwardine. It is an integral part of the polite landscape surrounding Hagley Park. The area is accessible by footpaths and thus, has recreational and amenity value. Moreover, on the opposite side of the main road there are a series of listed buildings including the outstanding New Inn, and several fine Georgian houses e.g. Hagley House, not to mention, several pretty vernacular cottages, which give so much character to this part of the village. Their listed status would be blighted by the new housing, placed so conspicuously with their backs along the edge of the field under consideration. Similarly, the new houses would have a detrimental impact upon the character of the Regency drive to Hagley Park, crowding the wonderful Holm oaks and obscuring the parkland landscape beyond. These two fields play an important part in the village-scape of upper Lugwardine and the Council should refuse permission for development.

5.6 Herefordshire Ramblers: No objection

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

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

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

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

## 6. Officer's Appraisal

6.1 Bartestree with Lugwardine are both identified as main villages within the UDP and are also identified as candidate villages for proportionate growth over the lifetime of the emerging Hereford Local Plan to 2031. The indicative growth target is 18% across the two villages, which

equates to 118 dwellings. This is one of four large-scale planning applications received within Bartestree and Lugwardine over the last 12 months.

- 6.2 The application is made in outline with all matters bar access reserved and involves the erection of up to 60 dwellings with 35 % affordable on land to the south of the A438 Hereford-Ledbury Road, Bartestree with associated vehicular access. The sites for residential development comprise two unconnected fields of permanent pasture opposite either side of the drive to Hagley Court and its associated unregistered historic park and garden. The site is outside but adjacent the settlement boundary as defined by the Unitary Development Plan. The application is predicated on the Council's lack of housing land supply.
- 6.3 Taking the characteristics of the site into account the main issue is whether, having regard to the supply of housing land, the proposals would give rise to adverse impacts, having particular regard to the likely effects upon the character and appearance of the area, heritage assets in the form of the listed buildings and unregistered parkland nearby, that would significantly and demonstrably outweigh the benefits of the development so as not to contribute to the achievement of sustainable development.

### Planning Policy

- 6.4 S38 (6) of the Planning and Compulsory Purchase Act 2004 states as follows:

*"If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."*

- 6.5 In this instance the Development Plan for the area is the Herefordshire Unitary Development Plan 2007(UDP). The plan 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. The pre-submission consultation on the Draft Local Plan – Core Strategy closed on 3<sup>rd</sup> 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 taking.
- 6.6 The two-stage process set out at S38 (6) requires, for the purpose of any determination, assessment of material considerations. In this instance, and in the context of the housing land supply deficit, the NPPF is the most significant material consideration for the purpose of decision-taking. NPPF Paragraph 215 has the effect of superseding UDP policies 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 over the UDP housing supply policies and the presumption in favour of approval as set out at NPPF paragraph 14 is engaged *if* development can be shown to be *sustainable*.
- 6.7 NPPF Paragraph 14 states that for decision making, the presumption in favour of sustainable development means:
- *"Approving development proposals that accord with the development plan without delay;&*
  - *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 In the context of the UDP and the Council's acknowledged shortfall of housing land supply it is the second bullet point and the weighing of positive and negative impacts that is relevant in this case. The decision-taker must decide whether the development before them is representative

of sustainable development having regard to the NPPF as a whole if the positive presumption is to be engaged.

- 6.9 Although not expressly defined, the NPPF refers to the three dimensions of sustainable development as being the economic, environmental and social dimensions.
- 6.10 The economic dimension encompasses the need to ensure that sufficient land is available in the right places at the right time in order to deliver sustainable economic growth. This includes the supply of housing land, which is further reinforced in Chapter 6 – Delivering a wide choice of high quality homes. Paragraph 47 requires that local authorities allocate sufficient housing land to meet 5 years' worth of their requirement with an additional 5% buffer. Deliverable sites should also be identified for years 6-10 and 11-15. Paragraph 49 states:
- “Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites.”*
- 6.11 The social dimension *also* refers to the need to ensure an appropriate supply of housing to meet present and future needs and this scheme contributes towards this requirement with a mix of open market and affordable units of various sizes. Fulfilment of the environmental role requires the protection and enhancement of our natural, built and historic environment; and, as part of this, helping to improve biodiversity.
- 6.12 In this instance officers consider that in terms of access to goods, services and employment opportunities the site is sustainably located within one of the largest villages in proximity to the main population centre (Hereford) whereas the delivery of 60 dwellings, including 35% affordable, and community open space would contribute towards fulfilment of the economic and social roles. These are significant material considerations telling in favour of the development. In this case, it is the assessment of the development's approach to fulfilment of the environmental role, with specific reference to landscape character and the impact on the setting of listed buildings and unregistered historic parkland that is critical.

#### **Impact on landscape character, visual amenity and heritage assets**

- 6.13 NPPF Paragraph 109 states that valued landscapes should be protected and enhanced. Paragraph 113 advises local authorities to set criteria based policies against which proposal for any development on or affecting protected wildlife or geodiversity sites or landscape areas will be judged. It goes further, however, and confirms that *‘distinctions should be made between the hierarchy of international, national and locally designated sites, so that protection is commensurate with their status and gives appropriate weight to their importance and the contribution that they make to wider ecological networks.’* Appeal decisions have also confirmed that although not containing the ‘cost-benefit’ analysis of the NPPF, policies LA2 (landscape character), LA3 (setting of settlements), NC1 (biodiversity and development), NC6 (biodiversity action plans), NC7 (compensation for loss of biodiversity) and HBA4 (setting of listed buildings) are broadly consistent with chapters 11 and 12 of the NPPF.
- 6.14 The application site has no formal landscape designation. It lies in open countryside outside the settlement boundary. The boundary of the Wye Valley Area of Outstanding Natural Beauty (AONB) is approximately 2.5km to the south east, where there is a public viewpoint above Prior's Frome, and some 5km to the south at Holme Lacy. It is accepted that the proposed development is not likely to adversely affect the character of the wider Herefordshire landscape or its visual amenity (for example views from the AONB). It is also accepted that the site has a limited visual envelope, being reasonably well screened from most vantage points; the obvious exceptions being close up views from private properties, public rights of way and the main road.

- 6.15 The application site is located immediately opposite two Grade II listed buildings and sits on either side of the regency driveway to Hagley Court; also Grade II listed. The unregistered parkland associated with the latter extends into the southern part of the application site; albeit covering the area that is designated as a retained nature conservation area. The Conservation Manager (Landscape) objects to the proposal as set out above at 4.3. Hagley Court itself, however, is largely hidden from views from the main road in a mature, well treed setting.
- 6.16 Although accepting that the site has a limited visual influence and benefits from a degree of screening from a southerly aspect in particular, the Landscape Officer considers that the application understates the importance of the site as part of an historic landscape; rather the Landscape Capacity Appraisal (LCA) has been predicated on assessment of the visual impacts, without full assessment of the impact on the historic landscape. There is disagreement, therefore, in relation to the site's sensitivity and its function as a remnant of a structured historic landscape. The Conservation Manager (Building Conservation) also objects on the basis that the application site forms an important element to the setting of the adjoining listed buildings.
- 6.17 It follows that there is disagreement as regards the nature and magnitude of the landscape character and visual effects likely to arise as a result of the development proposed. The LCA acknowledges that the development would result in the loss of grazed pasture land, which provides a strategic gap on the southern side of the A438 affording views towards Hagley Court's parkland and wider-ranging views of the open countryside beyond, extending as far as the AONB. It is also acknowledged that built development, other than at the eastern end of the village, is limited to scattered, period properties and that this development would clearly alter the landscape character of the site and reduce the permeability and openness of views along a section of the A438.
- 6.18 Although your officers recognise the direct impacts arising from loss of pasture land and replacement with housing and the direct impact upon the amenity of neighbours, walkers using the public rights of way network locally and those travelling through Bartestree, these must be weighed against the benefits of the scheme, including those relevant to the economic and social roles outlined above. Officers acknowledge that this major development would irrevocably change the character of the village, diminishing the rural setting and transform the village's pattern into a more nucleated settlement.
- 6.19 Against this, however, the site is not subject to landscape or nature designation itself, is unconstrained in other respects and in your officers' opinion, represents a logical location for development at the heart of the village on the same side of the road as the village hall, playing fields and recreation areas, shop and nursery.
- 6.20 In terms of mitigation the scheme, with the involvement of the Conservation Manager (Landscape), now demonstrates a significant undeveloped margin to the site's northern and eastern boundaries and subject to detailed design the treatment of the site's northern boundary with the A438 has the potential to form an attractive corridor, with tree planting perhaps reflecting some of the existing mature specimens on the north side of the A438. Conditions will be imposed requiring the formulation of detailed planting and management proposals to ensure that an appropriate form of development is brought to fruition at the Reserved Matters stage.
- 6.21 In the overall weighing of the adverse impacts and benefits of the development proposed, officers are conscious of the context set by the lack of housing land supply and the fact that although situated in an historic landscape and forming the foreground of the unregistered parkland, the site (excepting the southern half of the nature conservation area) is not subject to any specific landscape or conservation designation. Moreover any large development within an historic settlement is likely to exert some influence on the setting of listed buildings; as is the case here and with other proposed sites in Bartestere and Lugwardine. The setting of Hagley House and The New Inn have been subject to considerable change over the course of the latter part of the twentieth century; the latter is set back significantly from the carriageway. Although

officers concede that retention of the surviving open areas on the southern side of the road would be desirable from a listed building setting perspective, the impact of the development is capable of some mitigation at the Reserved Matters stage as illustrated by the revised layout plan, which depicts the grass verge and tree lined avenue concept referred to above. The Conservation Manager (Historic Buildings) also acknowledges that the development will not directly affect the immediate setting of the Court within its parkland. As such, and in the context of the housing land supply deficit, the harm to the setting of listed buildings is considered less than substantial and as per paragraph 134 of the NPPF the harm should be weighed against the public benefits of the proposal.

- 6.22 Therefore, whilst acknowledging a degree of conflict with the objectives of 'saved' UDP policies LA2 and LA3, HBA4 and NPPF paragraphs 109, 131 and 132, in exercising the planning balance, officers conclude that the nature of harm identified, would not amount to significant and demonstrable adverse impacts that should lead to refusal. The harm to landscape character is localised harm in an edge of village location that officers do not consider prejudicial to the overarching character of the Principal Settled Farmlands typology. In this respect although the Conservation Manager (Landscape) considers the adverse visual and landscape effects associated with the development as likely to be significant, these effects are local in their impact and not prejudicial to regional landscape character, whereas the harm to the setting of the designated heritage assets (listed buildings) is not considered substantial and must be weighed against the public benefits of the scheme.

### **Transport**

- 6.23 As per the comments above at 4.2 the Traffic Manager has provided revised comments in the light of additional information provided during the course of the application. He is now satisfied with the proposals to the extent that a conditional approval is recommended. Although a continuous 2.0m footway cannot physically be provided within the site or highway extent for the full site frontage, the footway does permit direct access from the western parcel to the village hall and playing fields and the signalised pedestrian crossing near to the village hall junction. Conversely the footway across the frontage of the eastern parcel would permit access to the bus stop on the southern side of the road, whilst provision is made for onward pedestrian travel eastwards alongside The Haven Cottages towards the shop.
- 6.24 The junctions are also considered to afford the requisite 2.4m x 90m visibility in each direction, albeit the visibility to the west from the western junction is 2.4m x 70m to nearside edge of the carriageway but in excess of 100m to the centreline; which given the restriction on overtaking associated with the pedestrian crossing is considered acceptable.
- 6.25 The Traffic Manager concludes that the scheme is acceptable relative to the requirements of paragraph 32 of the NPPF.

### **Public Open Space**

- 6.26 The scheme makes provision for 0.83ha of public open space through the dedication of land to the Parish Council. This land is the south-western portion of the western parcel and is well located relative to the existing Village Hall and playing fields. It is large enough to provide a full-size football pitch if required. As a direct response to concerns in relation to the delivery and funding of the open space the applicants have opted to gift rather than lease the land with the open space will be cleared and ready for use as part of the development. This would include provision of all landscaping and planting surrounding the area (as may be agreed as part of the Reserved Matters application) including removal/relocation of power lines as necessary. Access points and associated gateways will also be provided subject to approval. The gift of land would be subject to an 'overage' provision equal to 80% of the enhanced value of the gifted land, in

the event that planning permission for residential development is obtained over that land in the period of 80 years from the date of the gift.

- 6.27 In addition, the land will be subject to a restriction prohibiting the erection of any buildings, or development of any other kind on the land unless such development has first been agreed in writing by the applicants and specifically there will be a covenant prohibiting installation of permanent sports floodlighting on the land. These clauses give the requisite certainty as regards long-term ownership, maintenance and rights of use of the land. Whilst recognising that the Parish Council has long-term aspirations to acquire the whole of the western parcel for community use, the proposal far exceeds the planning policy requirement in terms of the actual provision of open space and is large enough to provide for a full-size pitch as need dictates. Officers consider that in the circumstances this proposal represents a genuine, long-term benefit to the community in a convenient and accessible location relative to the existing facilities that accords with and exceeds the requirements of UDP policies H9 and RST3 and NPPF paragraphs 70 and 73.
- 6.28 S106 requirements will also include a contribution of £66, 279 to be spent in accordance with Parish Council requirements on off-site play facilities. This would again help contribute towards fulfilment of an outstanding desire to extend the existing facility at the village hall, whereas the transport contribution has been identified as potentially contributing towards improvements to Village Hall junction with the A438 and widening of the access road.

### **S106 contributions**

- 6.29 The S106 draft Heads of Terms are appended to the report. CIL regulation compliant contributions have been negotiated and are summarised as follows:

‘Education Contribution’ – To be confirmed

‘Sustainable Transport Contribution’ - £104,920 based on current housing mix. This money would be directed towards sustainable transport projects, with potential expenditure on Traffic calming and speed management measures and the widening of the splay and entrance road to Village Hall and Playing Fields for safer egress and entry. This would help fulfil one of the Parish Council’s aspirations.

‘Off site play’ - £66,279 based on current housing mix. This contribution would be directed towards the improvement and extension of the existing play facilities at the village hall, which would help contribute towards fulfilment of one of the Parish Council’s aspirations.

‘Waste & Recycling’ – £4,680 based on current housing mix.

‘Library’ - £7,883 towards enhanced library facilities

The S106 will also include provisions to ensure 35% of the development meets the definition of affordable housing, together with requisite standards and eligibility criteria.

A restriction is also imposed requiring the dedication of the 0.83ha (2.05acres) of Community Open Space, in accordance with the terms described above. A maintenance contribution towards the management of on-site public open space and the SUDs basins, which will be adopted by the Council, will also be required.

### *Capacity at the local Primary School*

- 6.30 Lugwardine Primary School is found on Barnaby Avenue, Bartestree to the north of the A438, but within reasonable walking distance of the site. The school is at capacity and without obvious means of expansion. The Schools Capital and Investment Officer has confirmed that

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

admission to non-catchment based pupils is characteristically high and that the Council may have to revert to a policy of giving priority to pupils resident within the catchment area. It is the case that a considerable proportion of pupils presently at Lugwardine Primary live outside catchment.

- 6.31 The NPPF identifies the importance of ensuring a sufficient choice of school places for existing and new communities and recognises that local planning authorities will need to work proactively in order to meet this requirement (paragraph 72). In this context the tension is obvious, but on balance, it is considered that the single issue of school capacity is not sufficient to warrant refusal of the proposal.

#### *Impact on adjoining residential amenity*

- 6.32 Loss of amenity arising from direct and prejudicial overlooking is a material consideration. In this case, officers are satisfied that development of the site in the manner envisaged by the revised illustrative layout i.e. with housing set back from the A438 behind grass verges and footway and the relationships in terms of window-to-window distance are not considered to warrant refusal based on loss of amenity. Clearly this will be contingent on detailed consideration at the Reserved Matters stage. At this stage, however, officers are satisfied that an appropriate layout at the Reserved Matters stage would be capable of according with the requirements of saved UDP policy H13 and NPPF paragraph 12, which demands good standards of amenity.

#### *Ecology*

- 6.33 The Council's Ecologist concurs with the findings of the submitted appraisal and bat and newt surveys. It is considered that the proposal will have no worse than a neutral impact on ecological interests. Subject to the imposition of conditions as set out below, the development is considered to accord with the provisions of the Development Plan and NPPF guidance in this regard.
- 6.34 It is also concluded that adverse impacts on the fine, mature specimen trees on and off-site; most notably the Lucombe Oaks lining the Hagley Court drive, can be avoided.

#### *Foul drainage and water supply*

- 6.35 The Water Authority has no objection to the development and confirms that the treatment of domestic discharges from this site can be accommodated by the existing Waste Water Treatment Works. No problem is anticipated with the supply of potable water.

#### *Community Engagement*

- 6.36 The development proposal was subject to pre-application consultation with the Parish Council, Neighbourhood Plan Steering Group, Parish Action Group and Playing Fields Association. There was also a public exhibition following a leaflet drop to all addresses in Bartestree and advertisement in the Hereford Times. This process influenced the proposals in that the nature conservation area was originally intended as additional public open space. This was withdrawn upon concerns at the potential for consequent anti-social behaviour, the space now being retained in private ownership.
- 6.37 The nature of the proposal has also been amended during the application process itself. As reported above, the Community Open Space in the south-western corner of the western parcel will now be gifted to the Parish Council, with the developer offering the further undertaking of preparing the ground for recreational use. This requirement will form part of the S106 agreement.

*The proposal is prejudicial to the development of the Neighbourhood Plan*

- 6.38 Bartestree and Lugwardine Parish Council has designated a neighbourhood plan area. Work has been progressing towards the formulation of the plan and many representations refer to the prejudicial nature of large-scale proposals relative to the localism agenda as enshrined at paragraph 17 of the NPPF, which states that planning should be *'genuinely plan led, empowering local people to shape their surroundings, with succinct local and neighbourhood plans setting out a positive vision for the future of an area'*.
- 6.39 The tension between the NPPF requirement to significantly boost the supply of housing where supply issues persist and the devolution of planning powers to parish councils is obvious and widely felt. As an objective assessment, drawing on parallels elsewhere, officers conclude that in this instance the Neighbourhood Plan is not presently sufficiently far advanced to be attributed weight for the purposes of decision-taking. Whilst acknowledging that large-scale schemes such as this appear contrary to the intended aims of localism, the Council cannot reject schemes because they are potentially prejudicial to the neighbourhood plan; particularly where the plan is in the early stages of preparation. It is your officers' advice that emerging neighbourhood plans i.e. those that have not yet reached regulation 14 status cannot be attributed weight for the purposes of decision taking.

### **Summary and Conclusions**

- 6.40 The Council cannot demonstrate a five-year supply of housing land with requisite buffer. The housing policies of the UDP are thus out of date and the full weight of the NPPF is applicable. UDP policies may be attributed weight according to their consistency with the NPPF; the greater the consistency, the greater the weight that may be accorded. The pursuit of sustainable development is a golden thread running through both plan-making and decision-taking and identifies three dimensions to sustainable development; the economic, social and environmental roles.
- 6.41 When considering the three indivisible dimensions of sustainable development as set out in the NPPF, officers consider that the scheme when considered as a whole is representative of sustainable development and that the presumption in favour of approval is engaged. The site lies outside but directly adjacent the settlement boundary on a SHLAA minor constraints site in what is, having regard to the NPPF, a sustainable location with good access to a wide variety of services, facilities and employment opportunities. In this respect the proposal is in broad accordance with the requirements of chapter 4 of the NPPF (Promoting sustainable travel).
- 6.42 The contribution the development would make in terms of jobs and associated activity in the construction sector and supporting businesses should also be acknowledged as fulfilment of the economic role. Likewise S106 contributions and the new homes bonus should also be regarded as material considerations. In providing a greater supply of housing and breadth of choice, including 35% affordable, officers consider that the scheme also responds positively to the requirement to demonstrate fulfilment of the social dimension of sustainable development. Beyond this, the application also makes provision for community open space, which will be dedicated to the Parish Council. Whilst accepting that the Parish Council desire would be for community use of the entire western parcel (as per the 2003 planning permission), this was not achievable at the time. Given the current circumstances, officers consider that the gifting of the land at no cost to the Parish Council, with developer agreement to undertake work to ready the ground for community use is a benefit of the scheme, as are the requisite S106 contributions.
- 6.43 The tension, in this case, relates to the environmental role. In ecological terms, officers conclude that there is no overriding evidence of significant or demonstrable harm of nature conservation interests. It is also the case that the examples cited at footnote 9 to paragraph 14 of the NPPF are not applicable to this site i.e. the site itself is not subject to any national or local designations that indicate that development ought to be restricted. As such, although the loss of



these open fields of permanent pasture in the foreground of listed buildings and unregistered parkland is acknowledged, the decision taker must weight the significance of this harm against the benefits of the scheme.

- 6.44 Officers conclude that there are no highways, drainage, ecological or archaeological issues that should lead towards refusal of the application and that any adverse impacts associated with granting planning permission are not considered to significantly and demonstrably outweigh the benefits. It is therefore recommended that planning permission be granted subject to the completion of a legal undertaking and planning conditions.

## **RECOMMENDATION**

**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 revised Proposed Layout Plan 13-079-04 dated 30th July 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 60 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. **H17 Junction improvement/off site works**
11. **H18 On site roads - submission of details**
12. **H19 On site roads - phasing**
13. **H20 Road completion in 2 years**
14. **H21 Wheel washing**

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

15. **H27 Parking for site operatives**
16. **H29 Secure covered cycle parking provision**
17. **H30 Travel plans**
18. **L01 Foul/surface water drainage**
19. **L02 No surface water to connect to public system**
20. **L04 Comprehensive & Integrated draining of site**
21. **G04 Protection of trees/hedgerows that are to be retained**
22. **G10 Landscaping scheme**
23. **G11 Landscaping scheme - implementation**
24. **The recommendations set out in Sections 8.3 to 8.8 of the Phase 1 ecologist's report from Phil Quinn dated May 2014 and Section 7 of the Great Crested Newt report from Phil Quinn dated May 2014 should be followed in relation to species mitigation and habitat enhancement. Prior to commencement of the development, a full working method statement with a habitat enhancement plan 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**

25. **Prior to commencement of the development, a reptile survey for should be conducted with results and any mitigation necessary 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**

26. **Prior to commencement of development, a Construction Environmental Management Plan shall be submitted for approval in writing by the local planning authority and shall include timing of the works, details of storage of materials and measures to minimise the extent of dust, odour, noise and vibration arising from the construction process. Specific measures to safeguard the integrity of private water supplies should be highlighted such as pollution risk and increased use projections. The Plan shall be implemented as approved.**

**Reasons: To ensure that all species and sites 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's Unitary Development Plan.**

**To comply with policies NC8 and NC9 within 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.

**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. HN08 Section 38 Agreement & Drainage details
4. HN07 Section 278 Agreement
5. HN04 Private apparatus within highway
6. HN28 Highways Design Guide and Specification
7. HN27 Annual travel Plan Reviews
8. HN25 Travel Plans
9. HN13 Protection of visibility splays on private land

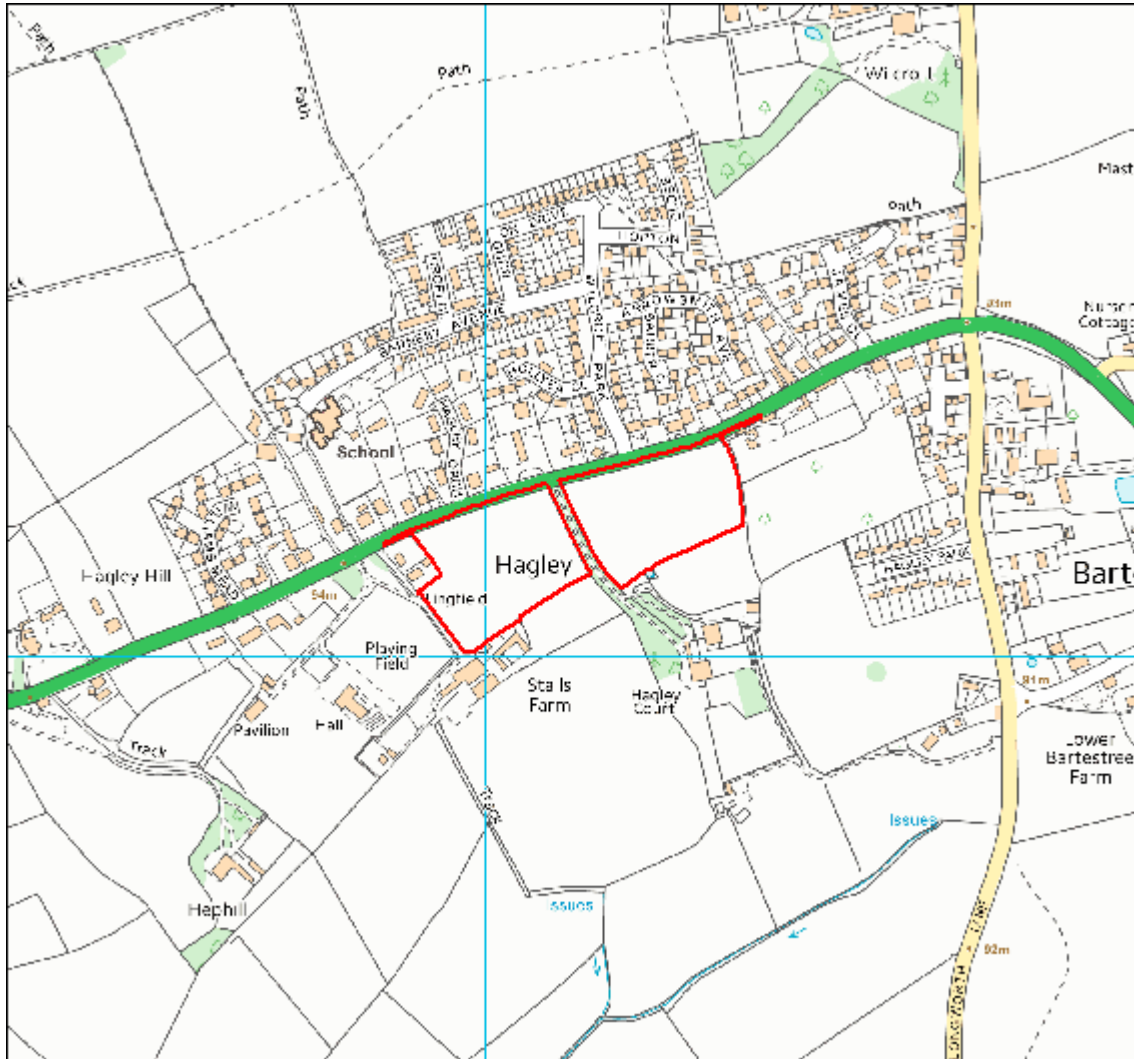
Decision: .....

Notes: .....

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**Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** 140926/O

**SITE ADDRESS :** LAND TO THE SOUTH OF A438, PARCEL NO. 0008 AND PART PARCEL NO.2308, BARTESTREE, HEREFORDSHIRE

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

# HEADS OF TERMS

## Proposed Planning Obligation Agreement Section 106 Town and Country Planning Act 1990

This Heads of Terms has been assessed against the adopted Supplementary Planning Document on Planning Obligations dated 1<sup>st</sup> April 2008. All contributions in respect of the residential development are assessed against general market units only.

Application Number: 140926/O

Planning application proposal: Outline proposal for the erection of 60 dwellings (including 21 affordable houses) and a change of use of land to form community open space on land to the south of A438 parcel no. 0008 and part parcel no. 2308 Bartestree, Herefordshire.

1. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of (per open market unit):

**£2,845.00** (index linked) for a 2+ bedroom open market unit

**£4,900.00** (index linked) for a 2/3 bedroom open market unit

**£8,955.00** (index linked) for a 4+ bedroom open market unit

to provide enhanced educational infrastructure at Hereford City Early Years, Lugwardine Academy Primary School, St Francis RC Primary, The Bishop of Hereford's Bluecoat School, a proportionate contribution towards St. Mary's High School R.C Primary School and Hereford City Youth with 1% allocated for Special Education Needs. The sum shall be paid on or before the commencement of the development, and may be pooled with other contributions if appropriate. ***Based on the indicative open market housing scheme submitted the education contribution would be £235,705.00.***

2. The developer covenants with Herefordshire Council to pay Herefordshire Council the sums of (per open market unit):

**£1720.00** (index linked) for a 2 bedroom open market unit

- £2580.00** (index linked) for a 3 bedroom open market unit
- £3440.00** (index linked) for a 4+ bedroom open market unit

to provide a sustainable transport infrastructure to serve the development, which sum shall be paid on or before the commencement of the development, and may be pooled with other contributions if appropriate. ***Based on the indicative open market housing scheme submitted the highway contribution would be £104,920.00.***

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

- 2.1. The provision of enhanced bus waiting facilities
- 2.2. Pedestrian improvements
- 2.3. Traffic calming and speed management measures
- 2.4. Widening splay and entrance road to Village Hall and Playing Fields for safer egress and entry

*Note: The footway identified on drawing number 13-079-4 is essential to make the development acceptable and will be delivered through a condition of the planning permission and delivered through a section 278 agreement.*

- 3. The developer covenants with Herefordshire Council to pay Herefordshire Council the sums of (per open market unit):

- £965.00** (index linked) for a 2 bedroom open market unit
- £1,640.00** (index linked) for a 3 bedroom open market unit
- £2,219.00** (index linked) for a 4+ bedroom open market unit

To provide enhanced off-site play infrastructure within the locality of the application site. The contribution would be used in accordance with the Play Facilities Strategy and Investment Plans and in consultation with the local Parish Council and community. There is an existing neighbourhood play area at the village hall which is in need of extension and refurbishment in places. A village of the size of Bartestree requires a neighbourhood play area therefore investment at

the existing facility will help ensure that a quality facility is provided and would benefit from additional equipment for older children in particular. **Based on the indicative open market housing scheme submitted the off-site play contribution would be £66,279.00.**

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

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

The contributions will provide for enhanced Library facilities in Hereford. The sum shall be paid on or before the occupation of the 1<sup>st</sup> open market dwelling, and may be pooled with other contributions if appropriate. **Based on the indicative open market housing scheme submitted the library contribution would be £7,883.00.**

5. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of **£120.00** (index linked) per open market dwelling. The contribution will provide for waste reduction and recycling in Hereford. The sum shall be paid on or before occupation of the 1<sup>st</sup> open market dwelling, and may be pooled with other contributions if appropriate. **Based on the indicative open market housing scheme submitted the waste contribution would be £4,680.00.**

6. The developer covenants with Herefordshire Council to gift the community open space to the parish council. The open space will be cleared and ready for use as part of the development. This would include provision of all landscaping and planting surrounding the area (as may be agreed as part of the Reserved Matters application) including removal/relocation of power lines as necessary. Access points and associated gateways will also be provided subject to approval. The gift of land would be subject to an 'overage' provision equal to 80% of the enhanced value of the gifted land, in the event that planning permission for residential development is obtained over that land in the period of 80 years from the date of the gift. In addition, the gifted land will be subject to a restriction prohibiting the erection of any buildings, or development of any other kind, on the land unless such development has first been agreed in writing by our clients and specifically there will be a covenant prohibiting installation of permanent sports floodlighting on the land.
7. The developer covenants with Herefordshire Council that 35% (21 in total based on a scheme of sixty dwellings) of the residential units shall be "Affordable Housing" which meets the criteria set out in policy H9 of the Herefordshire Unitary Development Plan or any statutory replacement of those criteria and that policy including the Supplementary Planning Document on Planning Obligations.
8. Of those 21 Affordable Housing units, at least 11 shall be made available for social rent with the remaining 10 being available for intermediate tenure occupation.
9. All the affordable housing units shall be completed and made available for occupation prior to the occupation of no more than 50% of the general market housing or in accordance with a phasing programme to be agreed in writing with Herefordshire Council.
10. The Affordable Housing Units must at all times be let and managed or co-owned in accordance with the guidance issued by the Homes and Communities Agency (or any successor agency) from time to time with the intention that the Affordable Housing Units shall at all times be used for the purposes of providing Affordable Housing to persons who are eligible in accordance with the allocation policies of the Registered Social Landlord; and satisfy the following requirements:-:



- 10.1. registered with Home Point at the time the Affordable Housing Unit becomes available for residential occupation; and
  - 10.2. satisfy the requirements of paragraphs 11 & 12 of this schedule
11. The Affordable Housing Units must be advertised through Home Point and allocated in accordance with the Herefordshire Allocation Policy for occupation as a sole residence to a person or persons one of whom has:-
- 11.1. a local connection with the parish of Bartestree and Lugwardine;
  - 11.2. in the event there being no person with a local connection to the parish of Bartestree and Lugwardine a local connection to the parishes of Hampton Bishop, Domington and Mordiford, Weston Beggard, Withington, Hereford;
  - 11.3. in the event of there being no person with a local connection to Bartestree and Lugwardine any other person ordinarily resident within the administrative area of the Council who is eligible under the allocation policies of the Registered Social Landlord if the Registered Social Landlord can demonstrate to the Council that after 28 working days of any of the Affordable Housing Units becoming available for letting the Registered Social Landlord having made all reasonable efforts through the use of Home Point have found no suitable candidate under sub-paragraph 10.1 above.
12. For the purposes of sub-paragraph 11.1 of this schedule 'local connection' means having a connection to one of the parishes specified above because that person:
- 12.1. is or in the past was normally resident there; or
  - 12.2. is employed there; or
  - 12.3. has a family association there; or
  - 12.4. a proven need to give support to or receive support from family members;  
or
  - 12.5. because of special circumstances;
13. The developer covenants with Herefordshire Council to construct the Affordable Housing Units to the Homes and Communities Agency 'Design and Quality

Standards 2007' (or to such subsequent design and quality standards of the Homes and Communities Agency as are current at the date of construction) and to Joseph Rowntree Foundation 'Lifetime Homes' standards. Independent certification shall be provided prior to the commencement of the development and following occupation of the last dwelling confirming compliance with the required standard.

14. The developer covenants with Herefordshire Council to construct the Affordable Housing Units to Code Level 3 of the 'Code for Sustainable Homes – Setting the Standard in Sustainability for New Homes' or equivalent standard of carbon emission reduction, energy and water efficiency as may be agreed in writing with the local planning authority. Independent certification shall be provided prior to the commencement of the development and following occupation of the last dwelling confirming compliance with the required standard.
15. In the event that Herefordshire Council does not for any reason use the sums in paragraphs 1, 2, 3, 4 and 5 above, for the purposes specified in the agreement within 10 years of the date of this agreement, the Council shall repay to the developer the said sum or such part thereof, which has not been used by Herefordshire Council.
16. The sums referred to in paragraphs 1, 2, 3, 4 and 5 above shall be linked to an appropriate index or indices selected by the Council with the intention that such sums will be adjusted according to any percentage increase in prices occurring between the date of the Section 106 Agreement and the date the sums are paid to the Council.
17. The developer covenants with Herefordshire Council to pay a surcharge of 2% of the total sum detailed in this Heads of Terms, as a contribution towards the cost of monitoring and enforcing the Section 106 Agreement. The sum shall be paid on or before the commencement of the development.
18. The developer shall pay to the Council on or before the completion of the Agreement, the reasonable legal costs incurred by Herefordshire Council in connection with the preparation and completion of the Agreement.



<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>27 AUGUST 2014</b>
<b>TITLE OF REPORT:</b>	<b>P142140/F - PROPOSED CHANGE OF USE FROM A1 USE TO MIXED A1 &amp; A3 USE AT TRUFFLES, 46 HIGH STREET, ROSS-ON-WYE, HEREFORDSHIRE, HR9 5HG</b>  <b>For: Mr Mayo per HDP Architecture, 100 Chase Road, Ross-On-Wye, Herefordshire, HR9 5JH</b>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=142140&amp;search=142140">https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=142140&amp;search=142140</a>

**Date Received: 11 July 2014**

**Ward: Ross-on-Wye West**

**Grid Ref: 359846,224119**

**Expiry Date: 5 September 2014**

Local Members: Councillors CM Bartrum and RL Mayo

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

- 1.1 The application site lies on the southern side of the High Street within Ross-On-Wye Town centre. The premises to which the application relates (i.e. number 46) is part of a terrace of historic buildings. The property itself is a Grade 2 listed building of architectural and historic interest. Upon the ground floor of the premises at present is an A1 shop. It currently operates as a delicatessen.
- 1.2 The proposal is to change the use of the ground floor of the premises from an A1 shop to a mixed use as an A1 shop and an A3 use (i.e. restaurants and cafes). The purpose of this application is to allow the operator of the delicatessen to have a few seats within the premises and in a rear courtyard where food and drink could be served (i.e. consumption on the premises). It needs to be made clear that this is not an application for a hot food takeaway or a drinking establishment.
- 1.3 No alterations are proposed to the fabric of the listed building. No alterations are proposed that would affect the external appearance of the building. This is an application for a change of use with no new building works.
- 1.4 The site lies within the Ross-On-Wye Conservation Area and the Wye Valley Area of Outstanding Natural Beauty.

## **2. Policies**

- 2.1 National Planning Policy Framework

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Further information on the subject of this report is available from Mr R Close on 01432 261803

## 2.2 Herefordshire Unitary Development Plan 2007

- S5 - Town Centres and Retail
- TCR1 - Central shopping and Commercial Areas
- TCR2 - Vitality and Viability
- TCR4 - Secondary Shopping Frontages
- HBA3 - Changes of Use of Listed Buildings
- HBA6 - New Development Within Conservation Areas
- DR2 - Land Use and Activity
- DR13 - Noise

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

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

## 3. Planning History

3.1 None relevant.

## 4. Consultation Summary

### Statutory Consultees

4.1 None.

### Internal Council Advice

4.2 Transportation Manager: Comments awaited.

4.3 Conservation Manager (Historic Buildings): No objections.

## 5. Representations

5.1 Ross-On-Wye Town Council: No objections.

5.2 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

6.1 The application site lies within a secondary shopping frontage of Ross-On-Wye Town Centre. The retail policies within the Development Plan have the objective of ensuring the vitality and viability of Town Centres.

6.2 The premises in question is within a defined secondary shopping frontage where policy TCR4 of the Herefordshire Unitary Development Plan 2007 applies. In this instance the row of commercial units in which the property lies consists of numbers 44-49 High Street (inclusive). The proposal in question would not result in a continuous frontage of more than two non-retail (A1) units as whilst number 45 immediately to the west is a "Coffee House" the unit beyond is an A1 retail shop (i.e. currently a clothes shop) and immediately to the east number 47 is an A1 retail shop (i.e. currently selling "collectables").

- 6.3 In terms of the entire frontage (numbers 44-49) inclusive, two of the five units are A1 retail shops (i.e. numbers 44 & 47), two are not (i.e. numbers 45 and 49), whilst if this scheme were to be permitted it would partially be an A1 retail shop and partially an A3 café use. Therefore it is considered that 50% of the relevant and legible frontage would remain in a retail shop use.
- 6.4 Furthermore it is considered that Ross-On-Wye Town Centre does have vacant premises and that in many respects any such active commercial use of premises within the Town Centre should be welcomed. It is considered that the proposal would enhance the vitality and vitability of the Town Centre.
- 6.5 It is considered that the proposed use would not create any harm to the character and would indeed enhance the character of the Conservation Area.
- 6.6 There would not be any adverse impact upon the character or appearance of the wider Wye Valley Area of Outstanding Natural Beauty.
- 6.7 There are some flats above shops and other commercial premises in this part of the Town Centre and whilst it is considered that they would not be adversely affected by the proposed use itself, to safeguard the amenities of the occupiers of dwellings in the vicinity it is considered that a condition limiting hours of use is appropriate.
- 6.8 In conclusion the proposal fully complies with the provisions of the Development Plan and the Central Government advice contained within the National Planning Policy Framework (NPPF).

**RECOMMENDATION**

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

- 1 A01 Time limit for commencement (full permission)**
- 2 The use hereby permitted shall not be open to customers outside the hours of 7am-11pm on any day.**

**Reason: To ensure that the occupiers of dwellings in this mixed residential and commercial area do not suffer an undue level of night-time noise, in accordance with Policies DR2 and DR13 of the Herefordshire Unitary Development Plan 2007.**

**Informative:**

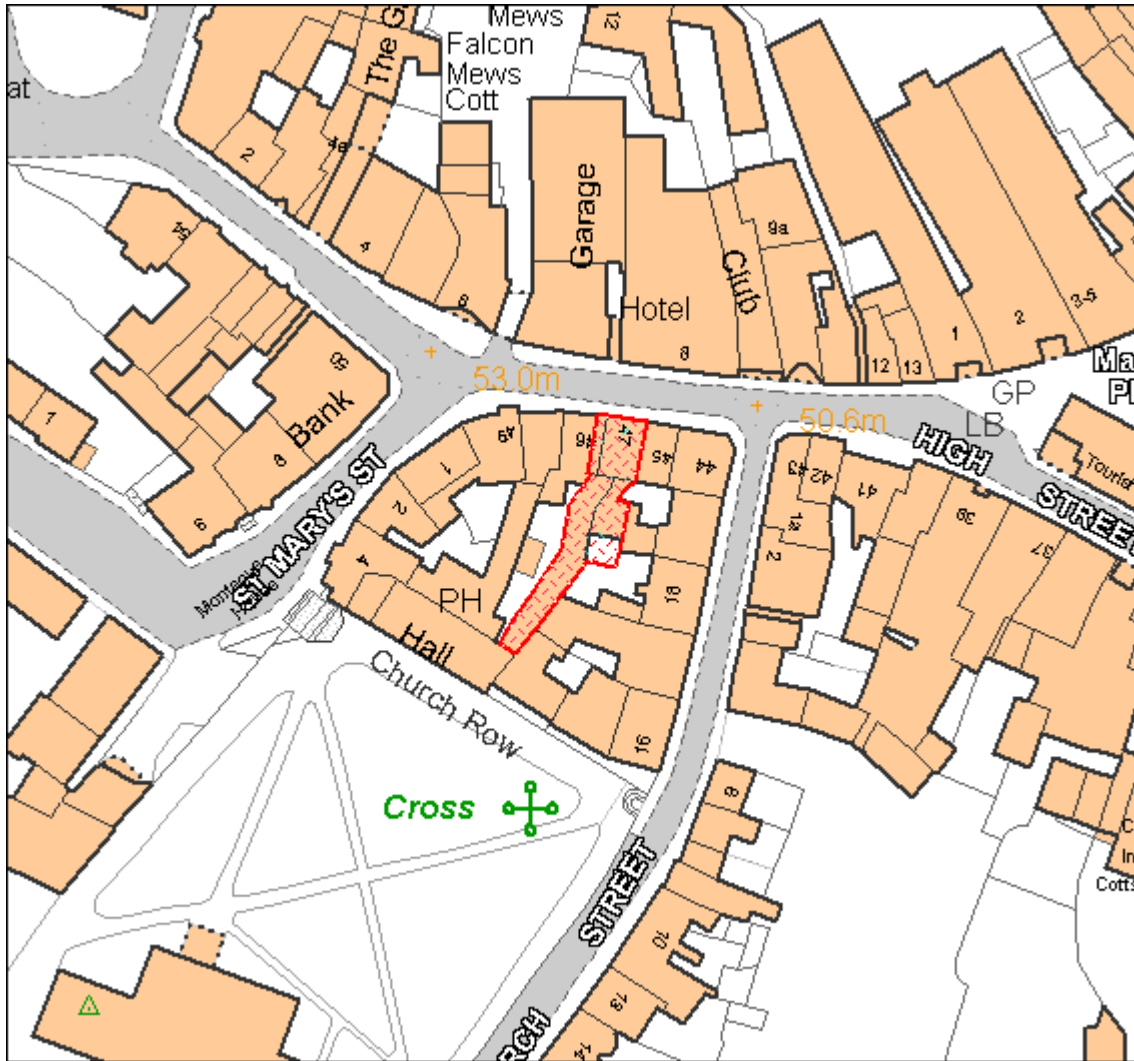
- 1 The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations that have been received. It has subsequently determined to grant planning permission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

Decision: .....

Notes: .....

**Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** 142140/F

**SITE ADDRESS :** TRUFFLES, 46 HIGH STREET, ROSS-ON-WYE, HEREFORDSHIRE, HR9 5HG

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Further information on the subject of this report is available from Mr R Close on 01432 261803