

AGENDA

Planning Committee

Date: **Wednesday 19 November 2014**

Time: **10.00 am**

Place: **The Shire Hall, St Peter's Square Hereford HR1 2HX**

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

For any further information please contact:

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Agenda for the Meeting of the Planning Committee

Membership

Chairman
Vice-Chairman

Councillor PGH Cutter
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

	Pages
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	7 - 24
To approve and sign the Minutes of the meeting held on 29 October 2014.	
5. CHAIRMAN'S ANNOUNCEMENTS	
To receive any announcements from the Chairman.	
6. APPEALS	25 - 26
To be noted.	
7. P141024/F LAND AT FLAG STATION, MANSELL LACY, HEREFORD, HR4 7HN	27 - 44
Proposed erection of 4 nos. poultry buildings, associated feed bins, hardstandings and access road.	
8. P141550/O LAND WEST OF UPPER COURT ROAD, BOSBURY, LEDBURY, HEREFORDSHIRE	45 - 70
Proposed site for up to 46 dwellings, new access from Upper Court Road, with open space, parking and associated infrastructure.	
9. P142450/O MYRTLEFORD COTTAGE, LEDGEMOOR, WEOBLEY, HR4 8RJ	71 - 78
Site for erection of dwelling.	
10 P141830/O COURT FARM, MUCH BIRCH, HEREFORDSHIRE, HR2 8HT	79 - 98
Site for 18 no. dwellings, associated car parking, access and landscaping.	
11 DATE OF NEXT MEETING	
Date of next site inspection – 9 December 2014	
Date of next meeting – 10 December 2014	



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HEREFORDSHIRE COUNCIL

MINUTES of the meeting of Planning Committee held at The Shire Hall, Hereford HR1 2HX on Wednesday 29 October 2014 at 10.00 am

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

Councillors: AJM Blackshaw, AN Bridges, BA Durkin, PJ Edwards, DW Greenow, J Hardwick, JW Hope MBE, MAF Hubbard, JA Hyde, RI Matthews, RL Mayo, PJ McCaull, NP Nenadich, FM Norman, J Norris, A Seldon, TL Widdows and DB Wilcox

87. APOLOGIES FOR ABSENCE

Apologies were received from Councillors EMK Chave, KS Guthrie and JG Lester.

88. NAMED SUBSTITUTES

In accordance with paragraph 4.1.23 of the Council's Constitution, Councillor Hyde attended the meeting as a substitute member for Councillor Guthrie, Councillor Nenadich for Councillor Lester and Councillor Seldon for Councillor Chave.

89. DECLARATIONS OF INTEREST

Agenda item 7: P141134/O Land Adjacent to Vine Tree Close, Withington, Herefordshire

Councillor J Hardwick declared a non-pecuniary interest because he knew the applicant.

Agenda item 8: P141022/F Land at Pinsley Road, Leominster, Herefordshire

Councillor AN Bridges declared a non-pecuniary interest as an employee of Network Rail which had made representations on the application.

Councillor FM Norman declared a non-pecuniary interest because a relative lived near to the site.

Agenda item 10: P133439/F Land off Acreage, Whitbourne, Herefordshire

Councillor A Seldon declared a non-pecuniary interest because his wife was the Clerk to the Parish Council.

Councillor J Hardwick declared a non-pecuniary interest because he knew the applicant.

Agenda item 12: 142088/FH The Lake House, Underdown, Ledbury Herefordshire

Councillor PGH Cutter declared a disclosable pecuniary interest because of a business interest and left the room for the duration of the remainder of the meeting.

90. MINUTES

RESOLVED: That the Minutes of the meeting held on 8 October 2014 be approved as a correct record and signed by the Chairman.

91. CHAIRMAN'S ANNOUNCEMENTS

There were no announcements.

92. APPEALS

The Planning Committee noted the report.

93. P141134/O LAND ADJACENT TO VINE TREE CLOSE, WITHINGTON, HEREFORDSHIRE

(Proposed erection of up to 45 dwellings, construction of a new vehicular access and associated works.)

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

In accordance with the criteria for public speaking, Mrs S Glover, Clerk to Withington Parish Council, spoke in opposition to the Scheme. Mr G Francis, a resident, spoke in objection. Mr P Smith, the applicant's agent, spoke in support.

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

He commented on a number of issues including:

- The Parish Council had been active in the area. It had identified other locations for housing development in preparing a Neighbourhood Plan.
- The field it was proposed to develop was at the highest point in the village.
- The access was unsatisfactory. It would involve demolishing one property and would have a demonstrably adverse effect on the two neighbouring properties and properties opposite the entrance to the site.
- There was concern about water run-off from the site, there having been recent experience of flooding as a consequence. However, it was possible that measures could be taken to control this matter.
- The development was out of keeping with the character of Withington.
- He asked whether it would be possible to await a full application rather than determining an outline application.

The debate opened and the following principal points were made:

- Concern was expressed about the size of the development. There was sympathy with written point 2 in the representation from the Parish Council, that, "*whilst there is not a five year supply of land in Herefordshire. It is unreasonable to expect this shortfall to be met by excessive developments in villages when the demand was primarily for housing in Hereford City and the Market Towns.*"
- The Parish Council had also commented at point 13 of its representation that, "*at the highest point the impact of the development on the sky line is a significant intrusion into the landscape*". The development would be detrimental to the character and appearance of the village.

- There had been 64 letters of objection and more weight should be given to the views of local residents, in accordance with the localism agenda.
- Greater weight should be given to the detrimental effect of large developments on the County's rural villages than to the absence of the five year housing land supply.
- There was a risk that the emphasis on the weight to be given to the absence of a 5 year housing land supply had diverted attention from an analysis of the proposed development itself.
- The Parish Council had identified preferable sites which would meet the housing growth identified for the area in the draft Local Plan – Core Strategy 2013-2031. It should be contended that Withington itself did not therefore have a lack of a five year housing land supply. Localism should therefore prevail and the application, whose benefits were outweighed by the harm it caused, and which did not represent sustainable development, should be refused. At a public presentation only 3% of residents had identified the application site as a preferred site.
- The Principal Planning Officer commented that the draft core strategy contained an indicative growth target for Withington that equated to 65 dwellings of which 37 had been constructed or for which an extant planning permission existed. No application had been submitted to develop the Parish Council's preferred site opposite Orchard House off Southbank road.
- Attention was drawn to paragraph 5.3 of the report containing representations from the Campaign to Protect Rural England. This stated that there was "*nothing innovative or outstanding about this outline proposal as required by NPPF paragraph 63*" (National Planning Policy Framework (NPPF)) and also referenced paragraph 64 of the NPPF: "*Permission should be refused for development of poor design that fails to take opportunities available for Improving the character and quality of an area and the way it functions*".
- None of the statutory consultees or those providing internal council advice had submitted objections to the development. However, the application offered nothing in terms of quality, longevity and energy efficiency.
- It was a speculative application taking advantage of the absence of a five year housing land supply.
- UDP policies LA2 – landscape character and areas least resilient to change and LA 3 – setting of settlements were grounds for refusal. The Conservation Manager (Landscape) had commented that the proposal would "deplete the visual amenity and recreational public value and the potential biodiversity value of the site."
- Water run-off from the site was a concern.
- It was suggested that in considering the sustainability of the scheme weight should be given to the fact that the application required the demolition of a sound, existing property. The Development Manager commented that this could not be considered a ground for refusal given that it was proposed to develop up to 45 new homes.
- There was an adverse impact on the Withington conservation area.
- The Parish Council had invested considerable effort in developing a Neighbourhood Plan and this was nearing completion. The weight that could be given to the draft Neighbourhood Plan having regard to paragraph 17 of the NPPF was discussed. The Development Manager commented that a Neighbourhood Plan could not be adopted until the Core Strategy was approved. A planning inspector would not attribute weight to a draft Neighbourhood Plan. Members expressed dissatisfaction with this view, it being suggested that advice had previously been given to them that greater weight could be given to such draft plans as they reached a more advanced stage of development. It was also to be regretted that the considerable efforts being made to develop such plans were apparently to no avail.

The Development Manager clarified that the authority could not insist on a detailed application being submitted rather than an outline one. Weight could not therefore be given to concerns about design of the scheme at this stage.

The local ward member was given the opportunity to close the debate. He reiterated that his principal concern was the adverse impact of the access to the site.

It was proposed that the scheme should be refused. The following grounds were advanced: the adverse impact of neighbouring residents of the proposed access, surface water run off and saved polices LA2 and LA3 of the UDP.

RESOLVED: That planning permission be refused on the grounds set out below and officers named in the scheme of delegation be authorised to finalise the drafting of the reasons for refusal for publication: the adverse impact on neighbouring residents of the proposed access, surface water run off, and saved polices of the UDP: LA2 – landscape character and areas least resilient to change and LA 3 – setting of settlements.

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 and by identifying matters of concern with the proposal and clearly setting these out in the reasons for refusal. The Local Planning Authority is willing to provide pre-application advice in respect of any future application for a revised development.

(The meeting adjourned.)

94. P141022/F LAND AT PINSLEY ROAD, LEOMINSTER, HEREFORDSHIRE, HR6 8NN

(Proposed demolition of existing building and erection of 29 dwellings with associated private drive, landscaping and external works.)

The Principal Planning Officer gave a presentation on the application. He reported that a further letter of objection had been received.

In accordance with the criteria for public speaking, Mr P Ellis of Leominster Town Council spoke in opposition to the Scheme. Mr M Tomkins, the applicant, spoke in support.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillors JM Bartlett and PJ McCaull the two local ward members, spoke on the application.

Councillor Bartlett commented on a number of issues including:

- She expressed concern about the justification for not requiring a S106 agreement and the absence of any provision for the Council to secure benefits for the community should the scheme prove to be more financially viable than expected.
- The basis for not having an S106 agreement was a confidential affordable housing viability report. The conclusions of this assessment meant that the scheme included no social or affordable housing.
- Whilst the site was a brownfield site and in a poor state this did not mean that any application had to be permitted whatever its shortcomings. The site was in a sensitive location within the Leominster River Meadows Conservation Area. A

scheme of a high quality of design was required, consistent with paragraph 17 of the National Planning Policy Framework (NPPF).

- The pressure to give great weight to the absence of a five year housing land supply seemed to be at odds with the provisions of paragraph 17 of the NPPF and undermine the development and importance of a local plan.
- Many of the proposed units were extremely small in size. The assessment of housing need in Leominster was that the greatest need was for 3 bedroom houses. She questioned how the proposal represented sustainable development as defined in the NPPF.

Councillor McCaull commented on a number of issues including:

- He was concerned about the quality of design and the small size of many of the proposed units. The location, alongside the railway line, was also unprepossessing. He was opposed to the scheme in its present form.
- The scheme would also mean the removal of the building used by the Leominster Rifle and Pistol Club.

The debate opened and the following principal points were made:

- Network Rail had identified the need for any lighting from the development not to interfere with sighting of signals or train drivers vision. They had also requested a trespass proof fence. It was suggested that this might need to be closed fencing rather than chain-link mesh to avoid train drivers being distracted by lights from cars using the development. The Principal Planning Officer commented that if the scheme were approved these matters would be discussed with Network Rail.
- Some concern was expressed about the proximity of the development to the railway line, the nearest dwelling being about 22 metres away. A number of properties nearby were suffering from cracks attributed to the railway. In contrast, a view was expressed that modern glazing and other measures could mitigate the impact of the railway.
- The small size of some of the proposed dwellings and the density of development was a concern.
- An important footpath ran through the site.
- The location had experienced flooding from surface water. The Land Drainage Engineer had stated at paragraph 4.6 of the report that further information on a number of matters needed to be provided. However, this did not seem to be contained within the report.
- The location was on an important route and in a conservation area. Development on the site needed to be of a high quality.
- The late representation received, to which the Principal Planning Officer had referred in his presentation, set out a number of material planning grounds for giving further consideration to the Scheme prior to determination.
- The site was a brownfield site in a poor state and needed to be developed. There were, however, a number of concerns about the application before the Committee including the design and absence of a section 106 agreement. It was proposed that the Committee should defer determination of the application to allow for further discussions with the applicant and that local ward members should also be further consulted.
- It was cautioned that work on the introduction of the Community Infrastructure Levy had suggested that economic conditions in Leominster were such that a zero rate might be appropriate for Leominster. Support for the application should not therefore be made conditional on securing a S106 agreement. However, consideration might

be given to making an agreement which provided that, if the scheme were to become profitable, a portion of that sum would be secured for community benefits.

Consideration was given to whether deferral or refusal of the application was the better approach. The Development Manager commented that either option was open to the Committee. If the application were to be refused the applicant would have a right of appeal. The Principal Planning Officer referred to the site's planning history and cautioned against refusing the application on the grounds of density. The legal advisor supported the Principal Planning Officer's view.

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

Councillor Bartlett drew attention to the grounds of objection by Leominster Town Council set out in the report.

Councillor McCaull supported deferral of determination of the application.

RESOLVED: That determination of the application be deferred to permit further discussion with the applicant and consultation with the local ward members.

95. P140757/O LAND EAST OF CHURCH HOUSE AND WEST OF A438, BARTESTREE, HEREFORDSHIRE

(Residential development of up to 51 new dwellings of which up to 18 will be affordable.)

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

In accordance with the criteria for public speaking, Mr J Davies of Bartestree and Lugwardine Group Parish Council spoke in opposition to the Scheme. Mr M Fitzgerald, a resident, spoke in objection. Ms V Lane, the applicant's agent, spoke in support.

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

He commented on a number of issues including:

- The development would have an adverse effect on the landscape and character of the area. It was an urban development in a rural setting. It would be visible from viewpoints in the Wye Valley AONB. This was in contrast to the sympathetic Frome Park development nearby.
- A pedestrian access alongside the A438 was not suitable. The alternative pedestrian route, whilst satisfactory in the Summer, was not so agreeable in the Winter.
- The proposed vehicular access off the A438 where the speed limit was 40 mph was a concern. The proposed ghost right hand turn lane, so close to another one providing access to St Michael's hospice, would be confusing for oncoming traffic.
- Welsh Water may have submitted no objection. However, problems with foul drainage were being experienced by those currently living in the locality.

The debate opened and the following principal points were made:

- There was disappointment at the applicant's lack of engagement with the Parish Council and the local community.
- Both pedestrian and vehicular access were of concern.

- The Conservation Manager (Landscape) had objected to the development and set out good grounds for refusing the application in the report.
- There was some support for the application, provided assurance could be provided that proposed conditions 6 and 7 set out in the report would ensure a safe vehicular access, and that a 30 mph speed limit could be imposed; that landscaping would prevent intrusion into the Frome Park development, and that trees and hedgerows would be protected as far as possible.
- The Engineering Manager commented that it was considered that a safe access could be provided. The introduction of a 30mph speed limit would have to be subject to a separate Traffic Regulation Order process. The Principal Planning Officer commented that there would be a landscaping scheme and condition 16 provided for the protection of trees and hedgerows.
- Concern was expressed at the weight it was suggested should be given to the lack of a five year housing land supply and the undermining of the Parish Council's development of a Neighbourhood Plan.
- The development was disproportionate.
- Having regard to the provisions of the NPPF, the harm caused by the development outweighed the benefits.

The local ward member was given the opportunity to close the debate. He reiterated his opposition to the application and questioned some aspects of the proposed S106 agreement.

It was proposed that the scheme should be refused. The following grounds were advanced: the Council's Saved UDP policies LA2: Landscape character; LA3: Setting of settlements; LA4: Protection of historic parks and gardens; LA5: Protection of trees, woodland and hedgerow; and that the adverse impact of the development outweighed the benefits as set out in the NPPF.

RESOLVED: That planning permission be refused on the grounds set out below and officers named in the scheme of delegation be authorised to finalise the drafting of the reasons for refusal for publication: Council's Saved UDP policies LA2: Landscape character; LA3: Setting of settlements; LA4: Protection of historic parks and gardens; and LA5: Protection of trees, woodland and hedgerows, and that the adverse impact of the development outweighed the benefits as set out in the NPPF.

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 and by identifying matters of concern with the proposal and clearly setting these out in the reasons for refusal. The Local Planning Authority is willing to provide pre-application advice in respect of any future application for a revised development.

96. P133439/F LAND OFF ACREAGE, WHITBOURNE, HEREFORDSHIRE, WR6 5SA

(Erection of 20 no. new houses, bungalows and apartments and associated parking and amenity space.)

The Development Manager gave a presentation on the application, and updates/additional representations received following the publication of the agenda were provided in the update sheet, as appended to these Minutes.

In accordance with the criteria for public speaking, Mrs M Williams, Chairman of Whitbourne Parish Council, spoke in opposition to the Scheme. Mr S Gent, a resident, spoke in objection. Mr J Evans, landowner, and Mr N Knight, a resident, spoke in support.

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

He commented on a number of issues including:

- He outlined the steps he had taken to seek to ensure that the issues had been discussed in the local community and that there was an awareness of the provisions of the National Planning Policy Framework (NPPF).
- There was concern about the volume of extra traffic that the site would generate and the impact on the A44 junction, and the narrow road from the A44 to the village.
- He had advocated a revision to the location of the access and the applicants had amended their Scheme. However, concerns remained about the adequacy of the proposed visibility splays.
- Verbal confirmation had been provided that a footpath would be provided alongside the road to the development. He requested that if the application were approved the provision of this footpath should be included as a condition.
- If the scheme were approved measures should be implemented to moderate traffic speed.
- Whilst layout and design were subjective matters the report described the house designs in the scheme as not groundbreaking.
- The application proposed that the affordable dwellings would be provided to code level 3.
- Whitbourne had a mix of dwellings. It would be hard to argue that the development was out of keeping.
- He considered, contrary to the officer view, that given the elevated position of the development the visual impact would be substantial.
- There were concerns about the water run off from the site and flooding. It was a peculiarity of the planning system that whilst the report stated that a detailed drainage strategy was required, details did not have to be provided prior to an outline planning application being determined.
- The development was on grade 2 agricultural land and he was surprised that the report described this as being of low ecological value.
- The site was outside, although adjacent to, the defined settlement boundary.
- He invited the Committee to consider the cumulative impact of the following concerns he had identified: traffic, access, road layout, visual impact, flooding and the loss of grade 2 agricultural land.

The debate opened and the following principal points were made:

- The original access proposed might have been preferable.
- The development created a village within a village.
- The harm caused by the development outweighed the benefits.
- The view expressed at paragraph 55 of the officer report that, "*Government guidance is clear that 'decision takers' can only attach weight to Neighbourhood Plans once they have been submitted to the local planning authority for examination. As such no weight can be given to the Whitbourne Neighbourhood Plan at this stage.*" was questioned suggesting this was contrary to the guidance offered on the Government's planning portal that the greater advanced the plan the

greater the weight that could be given to it. Greater weight should therefore be given to Whitbourne's draft Neighbourhood Plan. It was noted that the Parish Council was proposing that development needs could be met through infill and conversions for the period of the draft Core Strategy.

- Employment opportunities were available in Bromyard and Worcester meaning that most residents of the new development would have to drive to work. In addition Whitbourne Primary School had recently closed. It was therefore questioned whether the development was sustainable having regard to the NPPF.
- Whilst the UDP might have designated Whitbourne as a main village circumstances changed. The village was content with its character as set out in its draft Neighbourhood Plan.
- The site was elevated and visually intrusive and outside the settlement boundary.
- The Parish Council had objected to the proposal, and their objection was supported by 53 letters of objection.
- It was questioned whether housing need could be met by infill and conversions and whether such properties would be affordable to young families. Villages needed young people if they were to survive.
- The Development Manager commented that the site had been identified as having low constraints in the Strategic Housing Land Availability Assessment. That was being reviewed but the draft core strategy identified Whitbourne as a location suitable for proportionate development. He considered that the development was sustainable. He acknowledged, that at any appeal little weight could be attached to the draft Core Strategy. However, in his view it would be difficult to defend a refusal at appeal.
- Concerns about access and traffic could be addressed.

The Head of Environmental Health and Trading Standards stated that officer advice remained that no weight could be given to the Whitbourne Neighbourhood Plan at this stage. Highways concerns could be addressed. The development was sustainable.

The local ward member was given the opportunity to close the debate. He had nothing to add to his opening remarks.

It was suggested that Chapters 7, 8 and 11 of the NPPF provided grounds for refusal, along with highways concerns, sustainability and the provisions in the Neighbourhood Plan.

A motion that the application be refused was lost after the Chairman exercised his casting vote.

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

1. **A01 Time limit for commencement**
2. **B02 Development in accordance with approved plans and details**
3. **C01 Samples of external materials**
4. **The recommendations set out in Section 5 of the ecologist's report dated October 2013 should be followed in relation to precautionary**

mitigation and ecological enhancement. Prior to commencement of the development, a habitat protection and enhancement scheme should be submitted to and be approved in writing by the local planning authority, and the scheme shall be implemented as approved.

Reason: To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (as amended), NERC Act 2006, the Conservation of Habitats and Species Regulations 2010, Policies NC1, NC6, NC7, NC8 and NC9 of the Herefordshire Unitary Development Plan and the relevant aims and objectives of the National Planning Policy Framework.

5. **An appropriately qualified and experienced ecological clerk of works should 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), NERC Act 2006, the Conservation of Habitats and Species Regulations 2010, Policies NC1, NC6, NC7, NC8 and NC9 of the Herefordshire Unitary Development Plan and the relevant aims and objectives of the National Planning Policy Framework.

- 6. **H13 Access, turning area and parking**
- 7. **I16 Restriction of hours during construction**
- 8. **F07 Domestic use only of garage**
- 9. **F08 No conversion of garage to habitable accommodation**
- 10. **F14 Removal of permitted development rights**
- 11. **F16 No new windows**
- 12. **G04 Protection of trees/hedgerows that are to be retained**
- 13. **G09 Details of Boundary treatments**
- 14. **G10 Landscaping scheme**
- 15. **G11 Landscaping scheme – implementation**
- 16. **G14 Landscape management plan**
- 17. **G19 Details of play equipment**
- 18. **H06 Vehicular access construction**
- 19. **H17 Junction improvement/off site works**
- 20. **I17 Scheme of foul drainage disposal**
- 21. **I22 No surface water to public sewer**
- 22. **I20 Scheme of surface water drainage , based on infiltration tests**

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. **HN04 Private apparatus in the highway**
3. **HN28 Highways Design Guide**
4. **HN05 Works within the highway**

(The meeting adjourned between 2.45 and 2.55pm)

97. P141956/F LAND ADJACENT TO BRANTWOOD, BARROW COMMON LANE, KINGSTONE, HEREFORDSHIRE, HR2 9HD

(New four bedroom detached dormer style house.)

The Senior Planning Officer gave a presentation on the application.

Councillor JF Knipe, the local ward member, questioned why the application had been brought before the Committee.

It was clarified that the proposed development was immediately adjacent to but outside the village settlement boundary. It was therefore contrary to the relevant saved policy in the Unitary Development Plan and accordingly had had to be submitted to the Committee for determination.

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

1. **A01 Time limit for commencement (full permission) - 1 year**
2. **B02 Development in accordance with approved plans and materials**
3. **F14 Removal of permitted development rights**
4. **G02 Retention of trees and hedgerows**
5. **G11 Landscaping scheme - implementation**
6. **H03 Visibility splays (2 metres by 33 metres in each direction)**
7. **H05 Access gates**
8. **H09 Driveway gradient**
9. **H12 Parking and turning – single house**
10. **I16 Restriction of hours during construction**

INFORMATIVES:

1. **N11C General Ecology**
2. **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.**

98. P142088/FH THE LAKE HOUSE, UNDERDOWN, LEDBURY, HEREFORDSHIRE, HR8 2JE

(Proposed installation of 16 photovoltaic panels on the roof of 1 3-bay open fronted store.)

(Councillor PGH Cutter declared a disclosable pecuniary interest and left the room for the duration of the remainder of the meeting.)

(Councillor PA Andrews Vice-Chairman in the chair.)

The Planning Officer presented the report.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor TL Widdows, one of the three local ward members, was invited to speak on the application. He had no comments.

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

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

INFORMATIVES:

1. **The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.**
2. **N11A Wildlife and Countryside Act 1981 (as amended) - Birds**
3. **N11C General Ecology**

99. DATE OF NEXT MEETING

The Planning Committee noted the date of the next meeting.

Appendix 1 - Schedule of Committee Updates

The meeting ended at 3.08 pm

CHAIRMAN

PLANNING COMMITTEE

Date: 29 October 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

P141134/O - PROPOSED ERECTION OF UP TO 45 DWELLINGS, CONSTRUCTION OF A NEW VEHICULAR ACCESS AND ASSOCIATED WORKS AT LAND ADJACENT TO VINE TREE CLOSE, WITHINGTON, HEREFORDSHIRE,

For: Mr Smith per Mr Paul Smith, 41 Bridge Street, Hereford, Herefordshire, HR4 9DG

ADDITIONAL REPRESENTATIONS

Amended Development Framework plan:-

This amended plan, prompted in part by comments made by representatives of the Parish Council, was received subsequent to completion of the officer report.

The amendments are as follows:

- The proposed footpath along the rear boundary of Vine Tree Close properties has been omitted and the connection with Veldo Lane re-routed.
- An area of Public Open Space (POS) adjoining the ecological buffer area/POS along the western site boundary has been shown. This area of POS could accommodate an equipped small children's play area, removing the need for small children to walk from the site to Withington Playing Fields.
- The Building Exclusion Zone has been extended in the south-west corner of the site.
- The indicative footpath link through the wooded area has been re-routed to the south-west corner of the site.

OFFICER COMMENTS

Amended Development Framework Plan

The amended Development Framework plan was received too late for re-consultation and has not, therefore, been included with the presentation. Whilst accepting that the Parish is objecting to the principle of development it nonetheless serves to illustrate that potential exists to address some of the stated concerns.

Affordable Housing tenures

The Parish Council has also questioned the need for additional social rented affordable housing at Withington given the relatively high provision that exists. As this is an outline application the affordable housing tenure split can be revisited according to need that exists at the time of development. This will necessitate a revision to the draft Heads of Terms that presently requires 50% of the affordable element to be social rented.

NO CHANGE TO RECOMMENDATION

P140757/O - RESIDENTIAL DEVELOPMENT OF UP TO 51 NEW DWELLINGS OF WHICH UP TO 18 WILL BE AFFORDABLE. AT LAND EAST OF CHURCH HOUSE AND WEST OF A438, BARTESTREE, HEREFORDSHIRE,

For: Braemar Property Developments Ltd per Unit 6 De Salis Court, Hampton Lovett, Droitwich Spa, Worcestershire, WR9 0QE

ADDITIONAL REPRESENTATIONS

Welsh Water has confirmed a meeting with representatives of the Parish Council has taken place. Whilst detailed assessment of the network is being commissioned, Welsh Water maintains its stance of no objection subject to conditions.

From calculations carried out the catchment should technically be well within the capacity range for the network.

OFFICER COMMENTS

Officers consider the off-site orchard planting and maintenance thereof is best secured via the S106 agreement. The draft heads of terms will be amended accordingly.

NO CHANGE TO RECOMMENDATION

P133439/F – ERECTION OF 20 NO. NEW HOUSES, BUNGALOWS AND APARTMENTS AND ASSOCIATED PARKING AND AMENITY SPACE AT LAND OFF ACREAGE, WHITBOURNE, HEREFORDSHIRE, WR6 5SA

For: West Mercia Developments Ltd per DJD Architects, 2 St Oswalds Road, Worcester, WR1 1HZ

ADDITIONAL REPRESENTATIONS

Further e-mails have been received from Robert Brown of 19 Old Forge but they do not raise any matters not previously raised or considered elsewhere in the report.

NO CHANGE TO RECOMMENDATION

MEETING:	PLANNING COMMITTEE
DATE:	19 NOVEMBER 2014
TITLE OF REPORT:	APPEALS

CLASSIFICATION: Open

Wards Affected

Countywide

Purpose

To note the progress in respect of the following appeals.

Key Decision

This is not an executive decision

Recommendation

That the report be noted.

APPEALS RECEIVED

Application 142219/F

- The appeal was received on 24 October 2014
- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Planning Permission
- The appeal is brought by Mr Joseph Thomas
- The site is located at Land at Yew Tree Cottage, Lingen, Bucknell, Shropshire
- The development proposed is proposed change of use of paddock, access improvement and construction of 3 bed cottage
- The appeal is to be heard by Written Representations

Case Officer: Mr P Mullineux on 01432 261808

Application 140926/O

- The appeal was received on 30 October 2014
- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Planning Permission
- The appeal is brought by The Owner and/or Occupier
- The site is located at Land to the South of A438, parcel no. 0008 and part parcel no.2308, Bartestree, Herefordshire
- The development proposed is Outline proposal for the erection of 60 dwellings (including 21 affordable houses) and a change of use of land to form community open space.
- The appeal is to be heard by Written Representations

Case Officer: Mr E Thomas on 01432 260479

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

APPEALS DETERMINED

Application 131587/F

- The appeal was received on 24 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 Bishop of Hereford's Bluecoat School
- The site is located at Bishop of Hereford's Bluecoat School, Hampton Dene Road, Hereford, Herefordshire, HR1 1UU
- The development proposed was Improvements to access, bus bays and car parking
- The main issues were:
 - the effect of the proposed development on the character and appearance of the area, including its effect on trees; and
 - whether there are other considerations to outweigh any potential harm arising from the development.

Decision:

- The application was Refused under Delegated Powers on 23 September 2013
- The appeal was Allowed on 23 October 2014

Case Officer: Mr E Thomas on 01432 260479

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



MEETING:	PLANNING COMMITTEE
DATE:	19 NOVEMBER 2014
TITLE OF REPORT:	P141024/F - PROPOSED ERECTION OF 4 NOS. POULTRY BUILDINGS, ASSOCIATED FEED BINS, HARD-STANDINGS AND ACCESS ROAD AT LAND AT FLAG STATION, MANSELL LACY, HEREFORD HR4 7HN For: Mr Davenport per Mr Ian Pick, Llewellyn House, Middle Street, Kilham, Driffield, YO25 4RL
WEBSITE LINK:	https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=141024&search=141024

Date Received: 7 April 2014

Ward: Wormsley Ridge

Grid Ref: 341135,245364

Expiry Date: 7 July 2014

Local Member: Councillor AJM Blackshaw

1. Site Description and Proposal

- 1.1 This application was deferred at the Planning Committee on 24 September 2014. The report has been updated since that meeting and following a further public consultation process required following submission of additional information regarding noise. It includes further objection to the proposal in terms of both impacts and on procedural grounds.
- 1.2 Located in open countryside, the application site forms part of an arable field, grade 3B land, bounded on three sides by a mature tree-lined hedge, acting as a natural visual screen to the site. Immediately adjacent to the north east of the site is a dwelling known as Flag Station, this grade II listed building is a former railway station situated alongside the site of a former railway line, (dismantled), which runs along the north eastern side of the site. Access to the site is via a farm track which leads directly onto the A480 also to the north-east.
- 1.3 The application proposes the construction of four broiler units, housing a total of up to 180,000 birds, each building measuring 94.48 metres x 24.38 metres, with a ridge height of 6.144m. In addition twelve feed bins, a hard standing area, improvements to the access track and a drainage attenuation pond are proposed.
- 1.4 The proposal operates on a 35 day growing cycle with 7 days thereafter for cleaning out and preparation for the arrival of day-old chicks. There would be 8 flocks per annum.
- 1.5 Traffic movements in total are stated to be 78 visits per flock, so a total of 156 movements, with 624 and 1248 respectively per annum.
- 1.6 A Screening Opinion carried out in accordance with Environmental Impact Assessment Regulations 2011 in relationship to the application, for the erection of four broiler buildings, twelve feed bins, hard standing, access improvements and drainage attenuation pond for

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

housing of up to 180,000 broilers dated 23 April 2014 established the development as EIA Schedule 1 development. Therefore an Environmental Statement (ES) in support of the application is mandatory.

- 1.7 The application is accompanied by an ES. The adequacy of the statement has been assessed with particular regard to the requirements of Schedule 4 of the Environmental Impact Assessment Regulations.2011. A revised Noise Impact Assessment was submitted on 29th September 2014. This has been subject of further publicity.
- 1.8 An e-mail from the applicant dated 1st July 2014 confirms that woodland screening outside of the application site, but on land in the applicant's control, is to remain.
- 1.9 Since preparation of the original report a copy of the Environmental Permit (EP) has been received. This refers to up to 257,000 bird places and a biomass boiler. For the avoidance of doubt, the proposal is for 180,000 birds and does not include a biomass boiler. Heating for the units would usually be by mobile gas space heaters inside the buildings. The permit also requires an above ground dirty water storage tank. This tank should hold up to 50,000 litres equating to 50 cubic metres, a circular tank of 5.65m diameter 2m high for example.
- 1.10 This application is presented to the Committee following the quashing of the previous decision to approve, by the High Court on 4th September 2014. The Order was made by consent in relation to procedural error. A copy of this can be viewed on the Council's planning website via the following link.

<https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=141024&search=141024>

2. Policies

2.1 National Planning Policy Framework (NPPF)

The following sections are of particular relevance:

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

2.2 Herefordshire Unitary Development Plan (HUDP)

S1 - Sustainable Development
S2 - Development Requirements
S6- Transport
S7 - Natural and Historic Environment
S10 - Waste
DR1 - Design
DR2 - Land Use and Activity
DR3 - Movement
DR4 - Environment
DR7 - Flood Risk
DR9 - Air Quality
DR13 - Noise
DR14 - Lighting
E13 - Agricultural and Forestry Development
E16 - Intensive Livestock Units
T8 - Road Hierarchy
T11 - Parking Provision
NC1 - Biodiversity and Development

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

- NC6 - Biodiversity Action Plan Priority Habitats and Species
- NC7 - Compensation for Loss of Biodiversity
- NC8 - Habitat Creation, Restoration and Enhancement
- NC9 - Management of Features of the Landscape Important for Fauna and Flora
- LA2 - Landscape Character and Areas Least Resilient to Change
- LA4 - Protection of historic parks and gardens
- LA5 - Protection of Trees Woodlands and Hedgerows
- LA6 - Landscaping Schemes
- CF2 - Foul Drainage
- HBA4 - Setting of listed buildings.

2.3 Herefordshire Local Plan Core Strategy

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

2.4 Other Material Considerations

Landscape Character Assessment

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

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

3. Planning History

3.1 None identified.

4. Consultation Summary

Statutory Consultees

- 4.1 Natural England raises no objections having referred to Habitat Regulations, Wildlife and Countryside Act SSSI, protected species and biodiversity enhancements.
- 4.2 The Environment Agency raises no objections, making reference to particular elements of the proposal and that the site will fall within Environmental Permitting (England and Wales) Regulations. The EP will control day-to-day general management and issues such as emissions and monitoring of water, air and land, as well as fugitive emissions, including odour, noise and operation. Comment on each element is summarised below.

- Ammonia - no modelling required.
- Odour –without prejudice, on the basis of the information provided, likely to be in position to grant EP.
- Noise – low probability of complaints.
- Dust - Provided 'Best Available Techniques' are employed then would not anticipate a nuisance to residents living nearby.
- Flood Risk - refer to lead local flood authority in this case Balfour Beatty as council's consultant.
- Water management - to be reviewed with EP application.
- Manure management – required to submit manure management plan.
- Pollution Prevention - measures to be incorporated in EP to protect ground and surface water.

4.3 In response to a question from officers to the Environment Agency the following was received;

'I can confirm that the permit was issued without prejudice or regard to the planning status of the site. We however consulted Herefordshire Council Planning Services and Environmental Health about this application prior to determination and no issues were received.

I can also confirm that the operator will have to comply with all the conditions in their Environmental Permit and other permissions it holds. Failure to comply could ultimately lead to a revocation of the permit.

In response to a query from objectors they advised:

'I can confirm that as the permit application was for 257,000 bird places we did not consider the odour or noise modelling reports in detail as these were for 180,000 bird places. A permit applicant is required to produce an odour management plan and a noise management plan if there are sensitive receptors within 400 metres of the proposed site boundary. Sensitive receptors include residential properties, schools and businesses etc. but not properties owned or occupied by the farm itself. The applicant is not required to submit odour or noise modelling information but may do so.

I believe that the Planning Authority should itself consider the Environmental Impact Assessment and in particular the noise and odour assessments when deciding whether the proposed development is suitable for the locality. This is stated in the third paragraph of the letter which the Agency has sent to the Planning Authority.'

Internal Council Advice

4.4 Environmental Health Manager (Amenity and Pollution) - raises no objections, advising that the site will be subject to an EP and that given the distances involved he does not expect any nuisance from light, dust, noise or odour (providing best practice is observed as per EP). A condition on manure transportation is recommended.

In response to the revised Noise Impact Assessment and matters raised by Marches Planning and Property Consultancy advised-

I can confirm that I have had opportunity to consider the updated Noise Impact Assessment dated 29th sept 2014, also the Marches Planning and Property Consultancy criticism of the assessment and the noise consultants response.

I am satisfied that the updated Noise Assessment now satisfactorily addresses the issue of traffic noise at night and demonstrates that noise is unlikely to be an issue with this development. I broadly agree with the noise consultant's response to the objectors concerns.

I would also add that although the objectors are critical of the use of BS4142 methodology to assess the likely impact of the noise there are no other appropriate standards. The Environment Agency's Guidance SRG6.02 suggests that the use of this standard might be appropriate. Advice is available from the World Health Organisation in its Guidance on Community Noise and BS8233:2014 Guidance on sound insulation and noise reduction for buildings on what are considered to be acceptable noise levels in dwellings and outside amenity areas, however these would not provide as high a level of protection to neighbours as the use of BS4142.

4.5 Environmental Health Manager (Land Contamination) - raised no objections.

4.6 Following a representation after preparation of the original report the additional advice, as set out below, was provided:

Having had opportunity to consider the letter of objection dated September 2014 from the Marches Planning & Property Consultancy I would make the following observations:-

Noise

- The background levels reported in the noise assessment are typical of the levels experienced in a rural locality and as such are consistent with what would be expected at receptor/neighbouring properties. I have no reason to suspect that they are not an accurate indication of the existing background levels.
- The reference to additional noise, not replacement of, existing levels is puzzling in that BS4142, the standard used to assess the acceptability of the noise produced by the development considers the specific noise (noise produced by the development) against existing background levels. It takes into account the difference and advises as to the likelihood of complaint. It does not consider the acceptability of combined noise levels. Advice is provided on noise levels affecting living areas by the World Health Organisation and reflected by BS 8233:2014; however the introduction of the noise from these poultry houses would be insignificant in raising the combined noise to an unacceptable level.
- The noise assessment addresses noise from transport movements only between 0700 and 1900. The use of BS 4142 is restricted where noise levels are very low as might be found in this situation. The Environmental Permit issued by the Environment Agency considers the acceptability of noise levels and the control methods. Should problems occur the Agency can vary this permit to require that improved controls are in place however these would not necessarily include traffic movements outside the permitted site. If this is considered to be an issue consideration could be given to imposing a condition with any planning permission prohibiting deliveries between 1900 and 0700.
- Noise from the blowing of feed into hoppers is a relatively short operation and due to the distance from neighbours I would not expect it to be a problem however if this should not be so the Environment Agency could put controls in place e.g. restricting night time deliveries etc.

Odour

- The odour assessment does appear to consider smell caused when the units are cleaned of litter. I would refer you to last 2 paragraphs of section 5, page 16 of the report and to the last paragraph on page 2 of Environment Agency's letter dated 9/5/14. Also due the relatively short duration of the cleaning process it would be unlikely to be the cause statutory nuisance.
- I am unable to comment on the anticipated odour rates per bird.
- I would expect that the discrepancy between the numbers of empty days is insignificant.
- The extract from the Environment Agency's letter 'if odour was significantly above this indicative threshold we may have serious concerns regarding short term more intense odour events typically associated with the late staged of the crop cycle and clean out' taken from the above mentioned paragraph on page2/3 appears to have been taken out of

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

context. The paragraph read in its entirety it advises that a higher indicative threshold is used for these short term events and that they do not perceive odour to be a problematic issue.

Conclusion

The Environment Agency permits this type of operation and has to be satisfied that it can operate without causing undue environmental harm and I understand that such a permit can be issued without a planning permission having been granted. The Agency requires that applicants for such permits provide suitable supporting information on which they can base their decision. It would appear that they are satisfied that a larger poultry rearing operation than the one subject to this planning application can comply with their requirements.

Experience of other similar poultry rearing operations suggests that due to the separation distance from sensitive receptors that nuisance is unlikely.

4.7 Transportation Manager - raises no objections.

4.8 Conservation Manager (Building Conservation) - raises no objections, advising:

'Pre-application discussions were held with the agent on the site in December 2013 and various suggestions for mitigation were made.

The site lies to the south of Flag Station, a former railway station on the disused Midland Railway branch line to Hereford, Hay and Brecon. The Station and the adjacent platform are grade II listed, dating from 1863, and are located some distance off the A480. Flag Station is used as a dwelling in the ownership of the applicant and there are modern farm buildings forming an agricultural yard to the east of the listed building.

The proposal for 4 nos. poultry units is situated in the field to the south of Flag Station on the other side of the line of the disused railway. Given the proximity of the proposal to the grade II listed Flag Station and its platform it is necessary to ensure that there is compliance with Policy HBA4, Setting of Listed Buildings.

It is proposed to keep the poultry units to the southern end of the application field in order to reduce their impact on the setting of the listed buildings. This is in line with our site discussions. There are already modern farm buildings to the east of the listed structures which affect the setting of the listed buildings. It is not considered that the current proposal would significantly affect the setting of Flag Station, not least due to the level of mature trees and general landscaping between the listed building and the proposal site.

In addition to the location of the proposal within the field the colours proposed for the metal cladding are considered appropriate for the rural surroundings. The dark green will tend to allow the buildings to recede visually rather than being prominent to view.

To the north of the proposed units a new hedge is proposed. This is to act as a further visual barrier between the listed building and poultry units, though a further improvement would be to have a tree belt in addition to the hedge. Given the existing tree cover around the field it would seem appropriate to reinforce that character.

Overall the proposal should have no detrimental impact on the setting of the listed building, Flag Station, given the mitigation measures proposed.'

In respect of other historic assets the advice is as follows:

Keepers Lodge is situated further up the former railway line from the application site and there are a number of mature trees which almost completely block any intervisibility between the proposed buildings and the listed building. It is not considered that the impact on the listed building is either significant or detrimental.

The registered parkland at Foxley is situated a considerable distance from the application site and at a much higher ground level. The parkland as perceived from the main road is dense woodland with a strong boundary onto a series of cultivated fields. The proposed landscaping works on the application site would augment the existing mature trees on the boundary of the site. When this is combined with the distance and existing landscape between the site and Foxley it is considered that there would be no adverse impact on the setting of the registered garden.

Westmoor walled garden is a considerable distance from the application site and at a higher ground level. Between the walled garden and the application site are four properties in a cluster called Westmoor. The landscaping associated with these properties would effectively block any intervisibility between the listed structure and the application site and the setting is not considered to be affected by the proposal.

Due to their distance from the site and the lack of intervisibility between the site and the heritage assets, it was not originally considered necessary to make specific comment on the effect or otherwise on the setting, despite having been given consideration.

As noted in my previous response, the landscaping belt to the north of the proposed units is of great importance in mitigating the impact of the site on Flag Station. Certainly if the existing landscape had not already included mature and tall trees the setting of the heritage asset would have been severely compromised and a scheme would not have been supported. The scheme is now only supported provided that the landscaping belt is enacted and is of sufficient density to mask the buildings behind.

4.9 Conservation Manager (Landscape) main points are summarised below:

- The site functions as a small but important element in the natural and historic landscape.
- The landscape is of good quality and high sensitivity.
- The site is likely to be of limited ecological value with the exception of boundary and watercourse.
- The visual envelope of the site is limited due to surrounding hills and mature vegetation.
- The landscape has capacity to accept appropriately sited and designed agricultural built development
- Adverse effects on heritage are possible and without screening could be significant however, mature and good quality screening is noted.
- The proposal introduces both benefits and adverse effects in term of natural landscape and biodiversity.
- The site has a limited visual envelope and a few publicly accessible viewpoints. Visual effects are unlikely to be significant, subject to screening.

It concludes:

I do not object to the proposals in principle but effective and appropriate mitigation is required in order to avoid adverse effects in the longer term, and to safeguard the amenity of residents at Flag Station and Shetton Barns to the south west. Without it, the development could be contrary to planning policy including UDP Policy LA2 Landscape character, If permission is granted for this development, the following conditions should be attached:

G02 – Retention of trees and hedgerows

G04 – Protection of trees/hedgerows that are to be retained

G10 – Landscaping scheme
G11 – Landscaping scheme – implementation
G14 – Landscape management plan.

- 4.10 Conservation Manager (Ecology) raises no objections subject to conditions in order to ensure development is carried out in accordance with recommendations as set out in the ecological reports submitted in support of the application.
- 4.11 Conservation Manager (Archaeology) raises no objections.
- 4.12 The Land Drainage Manager recommends conditions to be attached to any approval notice issued with regard to surface water outfall to the receiving water course and on-site attenuation structure.

5. Representations

5.1 Foxley Group Parish Council raises no objections.

5.2 Bishopstone Parish Council has responded to the application indicating:

‘At their meeting yesterday Bishopstone Group Parish Council voted to oppose the above application and made the following comments regarding its impact on residents at Shetton.

1. The site is not appropriate for this type or size of development,
2. The application is not accurate as it lists only three dwellings that will be affected and ignores at least 9 other dwellings at Shetton, situated within 300-400 metres of the proposed site,
3. There is a high risk of flooding and of pollution caused either by flooding or when cleaning out,
4. There will be high levels of pollution by dust, noise, odour and emissions but assessments of these have only been carried out towards the A480 and not towards the dwellings at Shetton,
5. The screening mentioned in the application consists of mature trees. If the application is granted it should be subject to a condition for sectional felling and replanting of this woodland in such a way as to maintain an adequate permanent screen, and
6. A full Environmental Impact Assessment should be carried out before the application is considered.’

5.3 The National Farmers Union, (West Midlands Branch), has responded in support of the application indicating that the Council should support a strong farming industry within the County in order to feed the global population and that the proposed development represents an acceptable sustainable form of development in the local community that will benefit rural businesses.

5.4 Herefordshire Campaign To Protect Rural England objects to the application indicating that there is a failure:

- to regard material considerations,
- to consider impacts on the residential amenity of 11 dwellings,
- to consider impact on tourism and
- to consider adequately the effects on the quality of local watercourses.

5.5 One or more letters of objection have been received from:

- David and Sophie Palmer, The Stables Mansel Lacy,

- Lawrence and Suzanne Jevson-Hughston, Cork and Bottle Cottage, Shetton, Mansel Lacy,
- Caroline Worle, The Brewery, 3, Shetton Barns, Mansel Lacy,
- Roger and Patricia Stokes, Shetton Cottage, Mansel Lacy,
- Pamela Powell, Shetton Farm, Mansel Lacy,
- D.I & P.E. Powell, Shetton Farm, Mansel Lacy,
- Daniel. Powell, Shetton Farm, (via email), Mansel Lacy
- Josh Powell, Shetton Farm, (via email), Mansel Lacy
- Chloe Powell, Shetton Farm, (via email), Mansel Lacy
- Lyn Burwood, Beaumont, Bishopstone,
- Mr. & Mrs. M. Davey, Greentrees, Bishon Lane, Bishopstone,
- Mr. & Mrs. J. Fisk, Stone Cottage, Bishon Lane, Bishopstone,
- Roger Stokes, Shetton Cottage, Mansel Lacy,
- Sue Hubbard, 2, Glebe Cottages, Byford,
- Jacqueline and Michael Jones, Westlands, Mansel Lacy,
- Mr. M. Hillary and Family, Cork and Bottle Barn, Mansel Lacy,
- Mr. D. Bedford, c/o Crop spraying services, Spond, Hereford,
- M/s Nancy Malins, 1 Nelson Cottages, Bridge Sollers,
- Dorothy Lloyd, 2 Croft Road, Clehonger, Hereford.
- Marches Planning and Property Consultancy on behalf of Mr and Mrs Palmer.

Issues raised can be summarised as follows:

- Visual impact on the surrounding landscape, which includes reference to nearby development, historic assets and public rights of way and walks. Concerns about whether existing vegetation will be retained to screen the development.
- Noise, including HGV's at night and reference to the sustainable aims of the National Noise Policy Statement.
- Dust.
- Pests (flies) and
- Odour issues -all in relationship to residential amenity.
- Drainage/flooding issues and concerns about climate change, and in particular concerns in relationship to Yazor Brook and lack of detailed proposals with the application.
- Site selection in relationship to other sites in the control of the applicant.
- Comments about alleged inaccuracies in the Environmental Statement submitted in support of the application, such as distances to dwellings outside the applicant's control and not referred to in the Environmental Statement.
- Impact on surrounding businesses, and tourism interests. (Holiday and wedding venue and Yoga business).
- The methodology for assessing noise and the appropriateness of using BS4142.
- Concern that permit exists for 257,000 birds, more than the 180,000 applied for could result in increased stocking.
- 400m rule should be applied.
- Other alternative sites are available at Yazor Farm.
- Sustainability.

5.6 Following preparation of the original report further representations on behalf of Mrs Palmer, from Marches Planning and Property Consultancy were received. The new points relate to:

- Scope of development- the EP includes a biomass boiler which, in order to comply with Schedule 4 of the EIA regulations should have been included in the Environmental Statement. References to case law on this matter were submitted.

- That the biomass boiler could not subsequently be considered as permitted development.
- That the land is grade A, and the NPPF advises that:

112. Local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality.

- Further reference to tourists assets and residential amenity and regard to difference between the 257,000 birds in the permit and the 180,000 in the application, and that the department responsible for EP does not examine submissions with the planning application.
- It contained criticism of the ES answered in the response from the Environmental Health officer at 4.4

5.7 A letter of support from J Hilditch Whittern Farms Ltd Lyonshall as summarised below:

In addition to the importance of Cargill Meats to Herefordshire advises that there are 22 poultry sheds inside a 700 acre farm near Lyonshall in the middle of which she has a 5 Star gold holiday let and 4 other lets on the same holding .In total sleeping 54 people.’ During the entire time we have been running the luxury holiday lets we have never had a single complaint about the chicken sites or smells, this is for over 10 years.’

5.8 A letter has been received from the applicant’s agent in response to a letter of objection received to the application dated 8th May 2014 from D.I. & P.E Powell. It can be summarised as follows:

- The shelter belt on the southern side of the development provides an effective screen from Shetton Farm. The applicants have no objections to a condition requiring that this shelter belt has to remain in place with appropriate replanting to maintain the screen in its present form and height.
- In terms of the odour and noise assessments, which do not specifically reference Shetton Farm and the 7 barn conversions by name, it is confirmed that they have all been taken into account in the assessments. Within the noise assessment, they are referred to as receptor A, and within the Odour Assessment, receptor 3.
- Drainage from the proposed development has been designed in accordance with the SuDS requirements. The development includes capacity on site for volume storage of a 1 in 100 rainfall event with 20% for climate change added. The surface water from the development will only be released into the brook at a greenfield runoff rate. The way in which the drainage has been designed complies with the legislative requirements and will maintain the status quo with no additional loadings on the brook. The design has been accepted by the Council’s drainage team.
- The siting of the development was chosen due to its planning merits. The site has a direct access to the A480 which complies with national standards in terms of visibility splays. The site is also located adjacent to an existing range of modern farm buildings, and has the benefit of an existing dwelling for occupation by a farm manager. In terms of landscape impact, the siting is exceptional, and the site is effectively hidden within the landscape. The site is also sufficiently separated from existing private dwellings to comply with the requirements of the Environmental Protection Regulations, as demonstrated by the odour and noise modelling, and the response of no objections from the Environment Agency who is the monitoring authority for this development.

- 5.9 In a later submission the following further response to objections was received advising that the poultry units are to be heated by mobile gas space heaters within the buildings and that the land is grade 3b.
- 5.10 Further, the applicants stated that they would accept a condition restricting vehicle movements , other than for bird collection, to 7am to 7pm.
- 5.11 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 proposes the construction of four separate broiler units each measuring 94.48 metres x 24.38 metres with a ridge height of 6.144 metres for the housing of up to 180,000 birds along with control rooms and storage space attached to each building, also proposed are twelve feed bins, hard standing area, access improvements and a drainage attenuation pond.
- 6.2 This application has been subject to an ES, which accompanied the application together with associated documents. The ES has been considered together with the accompanying planning application and supporting information and all other representations/consultation responses.
- 6.3 Regard must be had to the adopted development plan for the purposes of determination which must be made in accordance with the plan unless material considerations indicate otherwise (S38 (6) Planning and Compulsory Purchase Act 2004). Saved policies remain in force and carry weight, where they accord with the NPPF.
- 6.4 The NPPF is a key material consideration at this time. It is to be regarded in its entirety, and sets out a presumption in favour of sustainable development and details three strands of sustainability (economic, social and environmental).
- 6.5 The key issues relate to

Alternative sites
 Economic, Business and Tourism
 Landscape and heritage assets
 Residential amenity
 Transport/ Highway safety
 Drainage/Flooding
 Ecological issues

Alternative Sites

- 6.6 The development is a farming enterprise proposal between a landlord and a farming business tenant and family, and proposes to locate the development on a site close to a dwelling in the applicant's control, which can be used as a dwelling for a Site Manager. To the rear of this dwelling are farm buildings used in connection with the farming enterprise concerned.

- 6.7 Other sites adjacent to the main farmstead of the farming business operated by the tenant, at Yazor Court, have been assessed, and considered unacceptable owing to impacts on setting of a listed building, landscape impact, (sites are more visible, in particular from the A480), and proximity to dwellings in occupation outside the control of the farming enterprise concerned. The consideration of alternative sites is considered acceptable.

Economic, Business and Tourism Issues

- 6.8 Whilst intensive poultry development is often controversial, the economic benefits of such development have to be considered. In this instance the broiler production is in relation to the 'Cargill' chicken processing plant based in Hereford, where major expansion is necessary to remain competitive in the industry.
- 6.9 In terms of economic impact it is further noted that tourism in the area is an important factor for consideration. To the southwest of the application site is a group of converted barns known as Shetton Barns, from part of which a holiday business is operated, in itself contributing to the local economy. These dwellings, as well as other dwellings within their vicinity, (including Shetton Cottage, Cork and Bottle Barn and Cork and Bottle Cottage from where it appears a 'Yoga' business is located, and other isolated farmhouse and private dwellings, as well as farming businesses), have been taken into account when considering these issues. Having regard to the distances involved and the existing vegetation which acts as a screen to the site, (which also includes some evergreen), the control available via the EP and additional landscape mitigation, on balance, are considered to provide sufficient mitigation so as not to be so harmful to business that the refusal of planning permission would be warranted.
- 6.10 Consequently the proposed development is considered acceptable on this subject in respect to key policy E13 as well as other relevant HUDP policies and that of the NPPF, particularly Section 3 - Supporting a prosperous rural economy.

Landscape and Historic Heritage

- 6.11 This is a major development in open countryside, however, with appropriate mitigation through the imposition of conditions it is considered that concerns about impact on the character of the landscape can be addressed sufficiently to satisfy key policies LA2, LA5 and LA6 and the aims set out in Section 11 - conserving and enhancing the natural environment in the NPPF. This includes management of the adjoining woodland as well as additional planting on site. The external colour of the main buildings is considered acceptable, however, the external colour of the feed bins is not specified and therefore it is recommended that a condition is imposed to address this issue.
- 6.12 Flag Station, a grade II listed building, lies adjacent to the site. The setting of the building will be affected as a result of the proposed development. Section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990 imposes a duty on local authorities to have special regard to the desirability of preserving the building or its setting, when determining applications.
- 6.13 In addition the impact upon the following assets has also been considered: Keepers Lodge – Grade II listed building, Foxley, Grade II* Registered Park and Garden and Westmoor Gardens – also Grade II.
- 6.14 The Conservation Manager (Historic Buildings) has considered the impact of the proposal upon these historic assets and concludes that with mitigation, including retention of the woodland, the proposal is considered to meet the requirements of key policies HBA4 and LA4 of the HUDP and Section 12 of the NPPF - conserving and enhancing the historic environment.

Environmental Health / Residential Amenity Issues

- 6.15 Information submitted in support of the application indicates that manure generated on site is to be used as a fertiliser on arable ground in the control of the applicant and a neighbouring farm. This is considered a sustainable use and it is recommended that a condition is imposed with regards to a manure management plan which would include movement in covered trailers.
- 6.16 The Environmental Health Officer raises no objections, referring to the requirement for the site to have an EP, issued by the Environment Agency. Contact has been made with the Environment Agency, by the applicants, who report that the Environment Agency raise no objections to the issuing of a permit for development as indicated. (They raised no objections to this application and neither do they request any conditions to be attached to any decision notice). The permit covers ecological and amenity issues such as noise, odour and dust etc. If these issues could not be addressed in a satisfactory manner in accordance with the thresholds for the issuing of a site permit then the EA would not issue a permit and the site would be unable to lawfully operate.
- 6.17 The commentary prior to policy E16 states, 'units should be sited at least 400m from non-agricultural dwellings or buildings; planning applications for units within 400m of a protected building will be carefully assessed'. This careful assessment includes consideration of the control exerted by an EP and in the light of para 122 of the NPPF.
- 6.18 The nearest dwellings are in the order of 320m from the proposed buildings. When taken together with mitigation through conditions the impact on the properties in the locality is not considered to be so harmful as to warrant refusal.
- 6.19 With consideration to the above-mentioned development, in terms of environmental health and residential amenity issues, the application is considered acceptable and in accordance with policies of the HUDP, in particular key policies S1, DR2, DR4, DR9, DR13, DR14, E13 and E16 as well as the NPPF.

Public Highway Access and Transportation Issues

- 6.20 The use of the A480 public highway in relation to this application and cumulative impact with other road users is considered acceptable. The Transportation Manager raises no objection.
- 6.21 The Environmental Statement makes reference to vehicle movements in relationship to the proposed development and this issue is considered to be addressed satisfactorily.
- 6.22 Therefore public highway issues are considered to have been addressed satisfactorily, (the site will have direct access from the applicant's land onto the A480 public highway). The Transportation Manager recommends a condition with regards to access, turning and parking.
- 6.23 Therefore on public highway and transportation matters the application is considered acceptable and in accordance with policies S1, S6, DR3 T8 and other relevant HUDP policies as well as the NPPF.

Drainage and Flooding Issues

- 6.24 Many of the letters of objection received raise issues in relation to flooding, with regards to the nearby Yazor Brook and capacity concerns, surface water run off and issues in relation to drainage and development on site.

- 6.25 The Environment Agency raise no objection on this matter and the Land Drainage Manager also raises no objection, recommending conditions with regards to surface water outfall and attenuation structure.
- 6.26 Whilst concerns as raised by the objectors on this matter are noted, the development has to be considered on the merits of the application and potential for flooding/drainage issues in relation to the development. The application proposes an attenuation pond in order to manage drainage on site and as such none of the statutory or internal consultees raise objection on this matter. The need for an above ground tank can be satisfactorily covered by the imposition of a condition. Therefore it is considered that this matter is addressed satisfactorily and it is recommended that conditions with regards to surface water outfall and on-site attenuation as recommended by the Land Drainage Manager are imposed.
- 6.27 Therefore on flooding and drainage matters the application is considered acceptable and in accordance with policies S1, DR4, DR7 and other relevant HUDP policies and the NPPF.

Ecology

- 6.28 Ecological issues are considered to be addressed satisfactorily and it is recommended that a condition is imposed in order to ensure that the recommendations as set out in the ecology report submitted in support of the application are adhered to.
- 6.29 Natural England has been consulted on the application raising no objection.
- 6.30 On ecological issues the application is considered satisfactory and in accordance with policies NC1, NC3, NC6, NC7 NC8 and other relevant HUDP policies and Section 11 of the NPPF.

Conclusions

- 6.31 There have been a number of competing elements to consider, not least of which have been the economic and amenity issues, landscape and historic heritage issues. The preceding sections of this report set out these and other issues and how they have been addressed through the application submission and/or the imposition of conditions.
- 6.32 The application is large in scale. However, it is considered that the development can be integrated into the environment in a satisfactory manner. The site is considered to be a suitable location for such farming practices. Sufficient mitigation measures are introduced to minimise any visual intrusion and adequately mitigate harm.
- 6.33 There are a number of definitions and measures of sustainability. It has been suggested that the proposal is not sustainable based on the aims of the National Noise Policy Statement, which states:
- avoid significant adverse impacts on health and quality of life;
 - mitigate and minimise adverse impacts on health and quality of life; and
 - where possible, contribute to the improvement of health and quality of life.
- 6.34 It is considered that the proposal and conditions set out both avoid and mitigate such impacts.
- 6.35 The NPPF sets out three dimensions which require the planning system to perform corresponding roles, namely economic, social and environmental. The policies set out in paragraphs 18 to 219 in the NPPF, taken as a whole, constitute the Government's view of what sustainable development in England means in practice for the planning system. Compliance with the NPPF taken as a whole therefore meets the sustainability test.

- 6.36 The issue about the difference between the number of broilers quoted in the EP and in the application has been considered. The proposal before Committee is for 180,000 broilers, not 257,000.
- 6.37 It is also important to note that a number of issues which regularly arise in such applications are dealt with through the Environmental Permitting Regulations, administered by the Environment Agency. A balancing exercise is required to address such competing material considerations. Paragraph 122 of the NPPF provides that local planning authorities should focus on whether the development itself is an acceptable use of land and the impact of the use, rather than the control of processes or emissions themselves, where these are subject to approval under pollution control regimes. Local planning authorities should assume that these regimes will operate effectively.
- 6.38 Having taken into account all representations and the environmental information and assessing in relation to the Herefordshire Unitary Development Plan policies and the National Planning Policy Framework it is considered that the proposal complies with the relevant policies contained therein and consequently the balance lies in favour of granting planning permission subject to the conditions set out below.

RECOMMENDATION

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

1. **A01 Time limit for commencement (full permission)**
2. **B02 Development in accordance with approved plans and materials and limited to 180,000 bird places.**
3. **Notwithstanding the approved plans all the external colouring of the feed silos hereby approved shall be to colour code 'Juniper Green' BS12B29).**

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. **H13 Access, turning area and parking**
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. **I55 Site Waste Management**
7. **L04 Comprehensive & Integrated draining of site**
8. **All manure moved off site will be so in covered and sealed trailers.**

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

Reason: In consideration of the amenity of the surrounding area and to comply with Policy DR4 of the Herefordshire Unitary Development Plan (and the National Planning Policy Framework).

9. **G02 Retention of trees and hedgerows**
10. **G04 Protection of trees/hedgerows that are to be retained**
11. **G10 Landscaping scheme**
12. **G11 Landscaping scheme - implementation**
13. **G14 landscape management plan**
14. **On commencement of the development, the mitigation as proposed must be carried out in accordance with Recommendations 1 to 4 set out in the ecologist's badger report submitted in support of the application from Betts Ecology dated March 2014. An appropriately qualified and experienced ecological clerk of works should be appointed (or consultant engaged in that capacity) to oversee the ecological mitigation work.**

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

15. **The recommendations set out in section 7.4 the ecologist's report from Bretts 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.

16. **No development will take place until the developer has provided detailed construction drawings of the proposed surface water outfall to the receiving watercourse to be submitted to and approved in writing by the Local Planning Authority.**

Reason: To ensure the integrity of the receiving watercourse and to comply with Policies DR4 and DR7 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework.

17. No development will take place until the developer has provided detailed construction drawings of the proposed attenuation structure to be submitted to and approved in writing by the Local Planning Authority. The details submitted must include information pertaining to the depth, levels and dimensions of the structure.

Reason: To ensure that the development has sufficient capacity to attenuate surface water runoff up to and including the 1% annual probability event (including climate change allowance) to ensure no increased flood risk to people of property elsewhere and to comply with Policies DR4 and DR7 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework.

18. Prior to the commencement of development, details of the design and location of the waste water storage tanks are to be submitted to and approved in writing by the Local Planning Authority, the development shall thereafter 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 or the existing public sewerage system so as to comply with Policy CF2 of Herefordshire Unitary Development Plan and the National Planning Policy Framework.

19. There shall be no HGV movements on site between the hours of 7pm to 7am, except for the collection of birds.

Reason: To safeguard the amenity of the area so as to comply with policy DR13 of the Herefordshire Unitary Development plan.

INFORMATIVES:

- 1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy Environmental Information 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. HN05 Works within the highway
- 3. N11A Wildlife and Countryside Act 1981 (as amended) - Birds
- 4. This permission does not extend to the provision of a biomass boiler, a separate application for which would be required.

Decision:

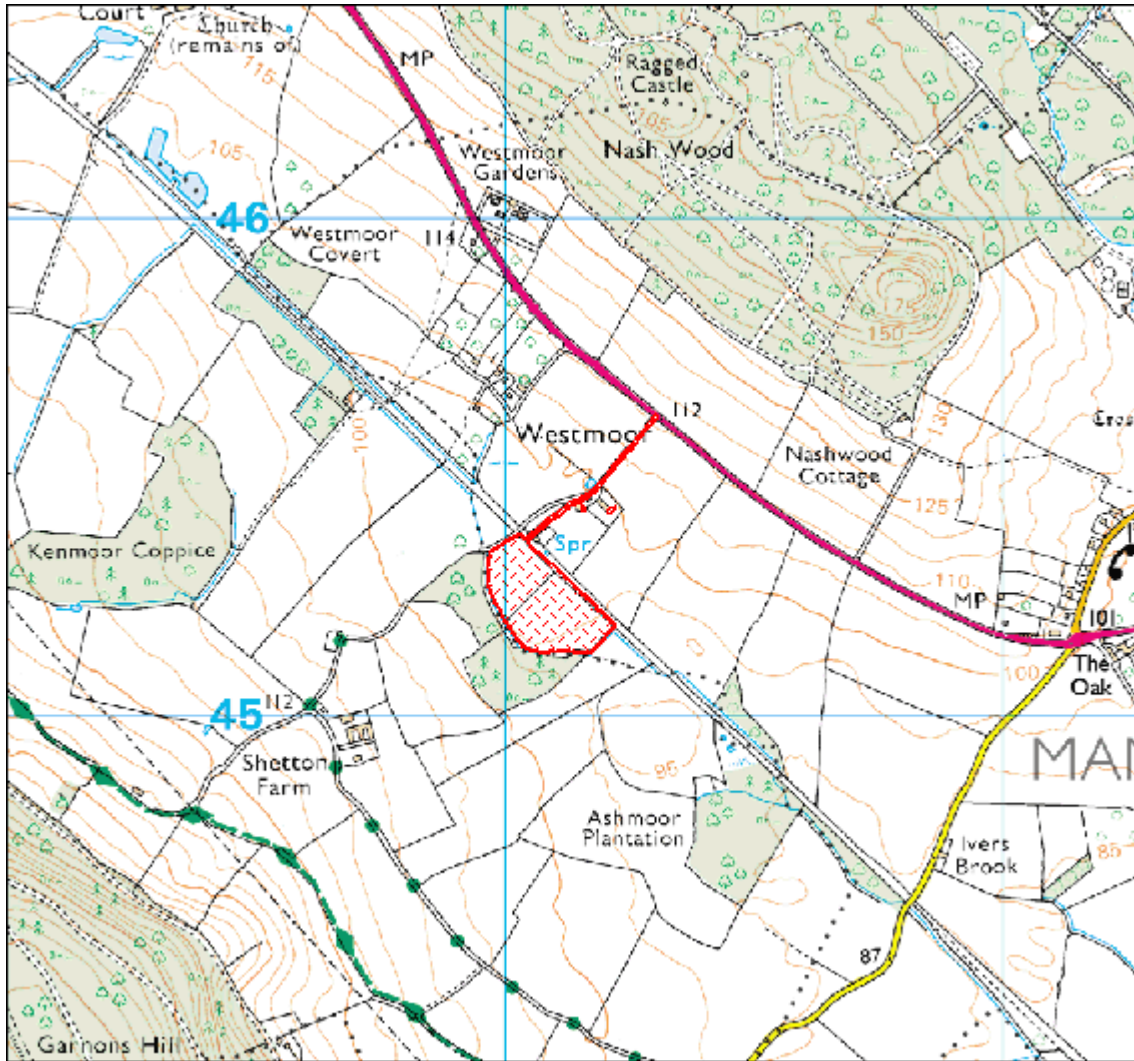
Notes:

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Background Papers

Internal departmental consultation replies.

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



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APPLICATION NO: 141024/F

SITE ADDRESS : LAND AT FLAG STATION, MANSELL LACY, HEREFORD, HR4 7HN

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



MEETING:	PLANNING COMMITTEE
DATE:	19 NOVEMBER 2014
TITLE OF REPORT:	P141550/O - PROPOSED SITE FOR UP TO 46 DWELLINGS, NEW ACCESS FROM UPPER COURT ROAD, WITH OPEN SPACE, PARKING AND ASSOCIATED INFRASTRUCTURE AT LAND WEST OF UPPER COURT ROAD, BOSBURY, LEDBURY, HEREFORDSHIRE For: The Church Commissioners for England per Carter Jonas, 1 Chapel Place, London, W1G 0BG
WEBSITE LINK:	https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=141550&search=141550

Date Received: 28 May 2014

Ward: Hope End

Grid Ref: 369734,243312

Expiry Date: 5 September 2014

Local Members: Councillors CNH Attwood and AW Johnson

1. Site Description and Proposal

- 1.1 The site is located on the southern edge of Bosbury and is part of an arable field of approximately 4 hectares. It is bounded to the south and west by mature hedgerows and abuts the built environs of the village to the north and east. A public footpath also runs along the western boundary and emerges directly onto the B4220.
- 1.2 The majority of the site is flat but it rises gently in its south eastern corner. The historic core of the village takes a linear form with buildings fronting onto the B4220. Part of the village is designated as a conservation area and this bounds the site to the north and west. The conservation area also contains a number of listed buildings including the Grade I Church of the Holy Trinity and its separate bell tower which are on the northern side of the B4220, and three Grade II listed properties that bound the site to the north.
- 1.3 Bosbury is a main village as defined by Policy H4 of the Herefordshire Unitary Development Plan (HUDP). Local amenities in the village include a pub, church, village hall and primary school. It is identified in the emerging Core Strategy as a village that is appropriate for proportionate growth.
- 1.4 The site abuts the settlement boundary and has also been assessed for its suitability as a housing site by the 2009 Strategic Housing Land Availability Assessment (SHLAA). It concludes that the site has significant constraints due to the fact that its development would be contrary to the settlement pattern of the village and that there would only be limited capacity for vehicular access via Upper Court Road to the east.
- 1.5 The application is made in outline and seeks permission for the erection of up to 46 dwellings on a site amounting to 2.64 hectares. All matters apart from access are reserved for future

Further information on the subject of this report is available from Mr A Banks on 01432 383085

consideration. The scheme proposes to take access from the residential estate road that is Upper Court Road, via Forge Bank and then onto the B4220. An illustrative masterplan accompanies the application in order to demonstrate that the site is capable of accommodating the development proposed. The application is also accompanied by the following documents:

- Planning Statement
- Design & Access Statement
- Transport Statement
- Travel Plan
- Flood Risk Assessment
- Ecology Report - Phase 1
- Reptile Survey Report
- Heritage Assessment
- Arboricultural Impact Assessment
- Draft Heads of Terms Agreement

1.6 Objections raised by the Council's Land Drainage Engineer and Conservation Officer have resulted in the submission of amendments to the Flood Risk Assessment and Heritage Assessment respectively and these have been the subject of further consultation.

2. Policies

2.1 National Planning Policy Framework (NPPF):

The following sections are of particular relevance:

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

2.2 Herefordshire Unitary Development Plan (HUDP):

S1	-	Sustainable Development
S2	-	Development Requirements
S7	-	Natural and Historic Heritage
DR1	-	Design
DR2	-	Land Use and Activity
DR3	-	Movement
DR4	-	Environment
DR5	-	Planning Obligations
DR7	-	Flood Risk
H4	-	Housing within the Identified Settlement Boundary of Main Villages
H7	-	Housing in the Countryside Outside Settlements
H9	-	Affordable Housing
H13	-	Sustainable Residential Design
H15	-	Density
H19	-	Open Space Requirements
RST3	-	Outdoor Play and Open Space Requirements
T6	-	Walking
T8	-	Road Hierarchy
LA2	-	Landscape Character and Areas Least Resilient to Change
LA3	-	Setting of Settlements
NC1	-	Biodiversity and Development

Further information on the subject of this report is available from Mr A Banks on 01432 383085

- NC8 - Habitat Creation, Restoration and Enhancement
- HBA4 - Setting of Listed Buildings
- HBA6 - New Development Within Conservation Areas
- CF2 - Foul Drainage

2.3 Herefordshire Local Plan Core Strategy:

- SS1 - Presumption in Favour of Sustainable Development
- SS2 - Delivering New Homes
- SS3 - Releasing Land for Residential Development
- SS4 - Movement and Transportation
- SS6 - Environmental Quality and Local Distinctiveness
- 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 Geo-diversity
- SD1 - Sustainable Design and Energy Efficiency
- SD3 - Sustainable Water Management and Water Resources
- ID1 - Infrastructure Delivery

2.4 Bosbury Parish Council has successfully applied to designate the Parish as a Neighbourhood Area under the Neighbourhood Planning (General) Regulations 2012. The area was confirmed on 1 August 2014. The Parish Council will have the responsibility of preparing a Neighbourhood Plan for that area. There is no timescale for proposing/agreeing the content of the plan at this early stage, but the plan must be in general conformity with the strategic content of the emerging Core Strategy. In view of this no material weight can be given to this emerging Plan.

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

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

3. Planning History

3.1 None identified.

4. Consultation Summary

Statutory Consultations

4.1 Environment Agency: Have no objection to the proposed development and offer the following comments:

Flood Risk: The proposed development is located in Flood Zone 1 (low probability) based on our indicative Flood Zone Maps. Whilst development may be appropriate in Flood Zone 1, a Flood Risk Assessment (FRA) is required for development proposals on sites comprising one hectare or above where 'there is the potential to increase flood risk elsewhere through the addition of hard surfaces and the effect of the new development on surface water run-off. The site does abut an area of Flood Zone 3, the high risk Zone, which is associated with the River Leaddon to the west.

Further information on the subject of this report is available from Mr A Banks on 01432 383085

Flood Risk Assessment (FRA): The submitted FRA and Drainage Strategy provides a topographic survey which demonstrate the slope of the land from east to west, falling from 73.5mAOD in the east of the site to 66.5mAOD in the west.

The FRA has utilised information provided by us to show that the site is wholly within Flood Zone 1. It also confirms that a section on the far west of the site is classified as an 'area benefitting from flood defences'. These flood defences are not owned or maintained by the Environment Agency. The Flood Map appears confusing in that prior to the 2012 update the site was shown to be partly within Flood Zone 2, the medium risk Zone. Since the update, which represents best available information, the site is now shown to be wholly in the low risk zone but the western portion is still shown to be 'defended'.

The planned proposals for the site show that the access to the site is from higher ground to the east of the site and is at no risk of flooding. The border of Flood zone 2 ends at the access track to Lower Mill and the rear of Bosbury C of E School. This is also the border of the development site.

Notwithstanding the above there are known existing flooding issues in the village of Bosbury. The introduction of 46 dwellings to the village which will be utilising the existing drainage system will put extra pressure on local drains and outfalls. As stated above development in excess of one hectare has the potential to increase flood risk elsewhere through the addition of hard surfaces and the effect of the new development on surface water run-off. We would therefore recommend you seek the views of your Land Drainage team, as the Lead Local flood Authority (LLFA) to ensure they are satisfied with the proposed surface water management measures and that there will be no increase in flood risk post development, with flood risk benefits offered where possible.

4.2 English Heritage: Comments awaited.

Internal Council Advice

4.3 Transportation Manager: The access points as shown are acceptable. Upper Court Road is capable of taking the volume of traffic generated. The pedestrian and cycle accesses provide good links to the village centre and local facilities.

4.4 Conservation Manager (Ecology): No objection subject to the imposition of conditions.

4.5 Conservation Manager (Archaeology): The additional important heritage assets beyond the central crossroads (eg Holy Trinity Church, Temple Court, and Old Court) are sufficiently distant, separated and obscured for their archaeological significance not to be greatly harmed by what is proposed.

I also concur with the opinion expressed in the Heritage Assessment that the potential for (currently undiscovered) below ground archaeology within the application site itself is comparatively low. I therefore have no objections subject to the imposition of a watching brief condition.

4.6 Conservation Manager (Historic Buildings): Objects to the proposal and makes the following comments:

At present it is relatively clear when travelling through the village that the built development to either side is one property deep. This is due to the views between the buildings which give glimpses of the fields beyond. To the north of the village the rising land enables the fields to be more prominent, but the lack of buildings behind the southern frontage is clear due to the trees and landscaping as much as being able to see the crops or grass.

The relationship between the buildings of the conservation area and their surrounding agricultural fields is considered important. It is clear to see from the impact of the Forge Bank development that when the historic frontage ceases to be backed by fields, the character of the frontage also changes significantly. The Forge Bank development may be a perfectly acceptable scheme in itself but it has given the east edge of the village a completely different character from the conservation area. The effect of the current proposal on the historic core is likely to be similar to Forge Bank's impact on the east approach. It is considered that this change in character would adversely affect the character and appearance of the conservation area and the views into and out of it. This would be contrary to Policy HBA6 and in particular point 8.

As identified in the Heritage Assessment the Church and its separate Bell Tower are grade I listed buildings and are landmarks in the surrounding countryside. Whilst it is true that the proposed housing would not obliterate the views of these exceptional buildings, the views of them would be altered significantly. At present it is clear that the built environment of Bosbury stretches east and west from the Church with buildings lining the village road and fields beyond. This is the historic setting of these buildings and indeed the other 27 grade II listed buildings within the conservation area. It is clearly legible. If the building line were to be extended to the south, in a similar way to Forge Bank then this legibility would be lost.

It is concerning that two of the most affected listed buildings have not been expressly assessed in relation to the impact of the proposal on the setting. In a similar way to the conservation area, it is considered that the setting of the properties bordering the site would be adversely affected. The dwellings towards the centre of the village are the more historic in the village and many are single storey cottages with rooms in the roof. This gives a very small scale to the frontage. In contrast the proposals, even if only indicative, show 2.5 storey houses backing onto the cottages. It is considered that these would overpower the small scale cottage on the road frontage to the detriment of their settings. This would be considered contrary to Policy HBA4.

Even if a small scale and height were to be proposed for the buildings on the application site, the perception of the road: building plot: field would be permanently changed. This change would still be considered an adverse impact on the listed buildings and the conservation area.

- 4.7 Public Rights of Way Manager: Pleased to see public footpath BZ39 marked on plans. We therefore do not object to the development. Any footpath surfacing works must be agreed with this department before works commence.
- 4.8 Waste Operations Team Leader: No objection.
- 4.9 Parks and Countryside Manager: The design and layout of public open space is supported. Although not centrally located the on-site provision has considered connectivity for both pedestrians and cyclists to all areas of public open space thus creating a more joined up and usable network that can be safely and easily accessed by local residents.

The SuDs area is to be partially "wet" which will encourage wetland habitat and if carefully designed taking account of standing water and health and safety issues, will create both an area for biodiversity and informal recreation including natural play opportunities.

- 4.10 Education: No objection subject to the provision of financial contributions to address the impact of the development on local education facilities.
- 4.11 Housing Development Officer: Supports the application in principle. The Draft Heads of Terms confirms that the developer will provide 35% (16) affordable units on site. The local connection

cascading parishes will be confirmed in the SI06. The exact mix, tenure and location of the affordable housing units will need to be agreed prior to the submission of reserved matters.

- 4.12 Land Drainage Engineer: Has no objection in principle to the proposed development and believes that the measures proposed are sufficient to adequately protect the development against flood risk and prevent any significant increased flood risk elsewhere as a result of the works. It is recommended that a number of improvements be considered and that further information regarding the proposed drainage strategy to be submitted during detailed design.

The following information is required to be provided as part of any subsequent reserved matters application and/or as a planning condition prior to commencement:

- A detailed drainage strategy that demonstrates how surface water runoff will be managed, specifically including details of the proposed discharge to the River Leadon. If the Applicant proposes to utilise the existing ditch, further information regarding location, capacity, condition and ownership must be provided. If the Applicant proposes to cross third party land, further information regarding this agreement must be provided.
- Demonstration of consideration given to reducing runoff during smaller rainfall events and providing additional treatment prior to discharge.
- Demonstration that infiltration of surface water runoff to ground will be maximised where appropriate, informed through investigation of soil infiltration rates and groundwater levels.
- Details of the proposals for adoption and maintenance of the surface water drainage system.
- Evidence that the required works at the wastewater treatment plant will be completed prior to construction.

5. Representations

5.1 Bosbury & Coddington Parish Council.

The parish council wish to **OBJECT** to the proposed housing development as the scale is disproportionate for this location and for other reasons as noted below.

Bosbury is a small village close to an Area of Outstanding Natural Beauty. The centre of the village is a Conservation Area and contains many listed properties and two scheduled monuments. The proposed development site abuts the historic core of the village.

The parish council accept that Herefordshire Council cannot demonstrate a five year housing supply and therefore its housing policies are not up to date. The parish council and local residents are not against appropriate residential development to help meet Herefordshire Council's five year shortfall, but the scale of the proposed development in this location is not acceptable as there would be a significant number of adverse impacts on Bosbury village as a result should it be approved.

Access & Highway Safety

The applicant states that the access and internal road layout have been designed in accordance with Manual for Streets and Herefordshire's Highway Design Guide. Access to the proposed site is via Forge Bank and Upper Court Road. These roads are on an existing housing development and are heavily parked due to many of the houses not having

convenient off-street parking, therefore reducing the usable width of the highway. This would result in congestion and prejudice highway safety. The high volume of traffic and increased pollution would have a direct impact on the amenity and quality of life of the existing residents of Upper Court Road and Forge Bank and is therefore contrary to UDP Policies S1 paragraph 14, S2 Paragraph 6, DR4 Paragraph 4, and DR13.

Manual for Streets, paragraph 7.2.2 states that carriageway widths should be appropriate for the particular context and take into account factors such as whether parking is to take place on the carriageway and, if so, its distribution, arrangement, frequency of occupation and the likely level of parking enforcement. In addition, The Council's Highway Design Guide states that minor roads serving up to 100 dwellings should have a standard carriageway width of 5.5m, possibly reduced to 4.8m where less than 50 houses are served. Footpaths of 2m should also be provided. The width of the existing roads on Forge Bank is, in places, just below 5.5m and the footpaths are not 2m wide. As such it does not meet the requirements of the Council's Design Guide and would provide a sub-standard vehicular and pedestrian access to the development.

Impact on historic core of Bosbury Village

The proposed site abuts the village's Conservation Area sharing a western boundary. Its northern boundary is adjacent to a number of listed buildings. Beyond these boundaries are many further listed buildings including the Grade 1 listed Bosbury Church and scheduled monuments. The historic core of the village has a linear settlement pattern along the B4220. The effect that a development of this size and layout would have on the historic core of the village is huge, being disproportionate and failing to respect the linear pattern of the historic core or the setting of the Conservation Area and listed buildings within it. The proposal is therefore contrary to UDP policies S2, H13, HBA4 (Setting of Listed Buildings), HBA8 (Locally Important Buildings), HBA9 (Protection of open Areas and Green Spaces) and the framework including paragraphs 131 and 17 (10th bullet point).

Sustainable village?

The village has a primary school, church, parish hall, pub, part-time hairdressers, private care home, and a post office service that is only on a Tuesday afternoon. However, the village is not self-sufficient and is served only by an infrequent bus service. Existing residents therefore rely on private transport to get to work, doctors appointments, shops, post office and secondary schools etc. The proposal is therefore contrary to UDP policies DR2 (Land use and Activity), S6 (Transport) and the framework including paragraph 17 (11th bullet point).

Size of Development

In Herefordshire Council's Core Strategy (draft document) Bosbury has been identified as being sustainable and appropriate for proportionate growth. In the case of the Ledbury HMA this is considered to be 14% growth over the period 2011-2031. According to the 'Rural Housing Background paper (2013) there are 143 dwellings within the main village envelope. This proposal of 46 dwellings would result in a growth of 32%. However, it should be noted that the number of houses within the main village as defined by the settlement boundary is considerably less (circa 100). On this more accurate figure the percentage increase would be approximately 46%. This is more than three times the 14% identified in the draft Core Strategy and would result in a disproportionate expansion that would detract from the character and setting of the village contrary to UDP policies DR1 (Design), S2 (Development Requirements) and H13 (Sustainable Residential Design) and the framework including paragraph 61.

Herefordshire SHLAA (Strategic Housing Land Availability Assessment)

Paragraph 5.13 of the applicants planning statement says that the site has been assessed as a suitable location for housing in the SHLAA. The most recent SHLAA for Bosbury (2009) states that *“the site is too large if developed in totality and would also be contrary to the pre-existing settlement pattern. Access is not possible direct from the main road and there is only limited capacity via the housing estate”*. The SHLAA therefore states that the site has *“significant constraints”*.

Play Area

The proposed location of the LEAP area is on the south-eastern corner of the development. Being sited here it is remote from both the proposed and existing village dwellings. Policy H19 of the UDP requires areas of open space to be well related to the development it is intended to serve, and be useful, safe, secure and accessible to all. Therefore the proposed site is contrary to UDP policy H19.

Infrastructure

The sewerage works are working to capacity and therefore cannot accommodate the extra volume this development would bring without considerable upgrading.

Visual Impact

The proposed development would obtrude into a green enclave, clearly extending the built form of the settlement into the landscape. This would be immediately apparent when the site is viewed from Lower Mill Lane and Forge Bank. In addition, this obtrusion would be apparent from the public right of way that crosses the western fringe of the site. The development would therefore fundamentally change the rural setting of the village as one progresses along the footpath and Lower Mill Lane.

This sense of urbanisation would be most acutely felt as one returns, passing through the development on the footpath where the experience of the journey, of passing through the ‘untamed’ to the ‘tamed’ realm of the landscape would be significantly and harmfully curtailed. As a consequence, the subtle balance of this sensitive interface between historic settlement and landscape would be lost, to the significant and material detriment of the scenic and natural setting of the designated heritage assets comprising the conservation area, listed buildings and scheduled monuments. For example, the application site would be directly visible in views from the Churchyard.

There would also be a detrimental impact on the outlook from the existing dwellings in numerous locations throughout the village including the conservation area. Their view would change from one of open countryside to that of a modern housing development.

Transport Statement

This makes much of the benefits of walking and cycling and also a section neatly summarises the very poor bus connections with a summary table demonstrating that no buses can be used for journeys to work as the timings are not remotely appropriate.

Section 4 deals briefly with the proposal and explains that there will be 104 parking spaces (therefore an expected 104 cars) and then Section 5 begins the Multi Modal Trip Assessment which is fundamentally misleading, provides deeply flawed figures.

The comparative site that has been chosen for the “multi-modal trip generation assessment” that is meant to provide an accurate model for the forecasting of traffic in and out of the

proposed development in Bosbury is ludicrous. It should be somewhere with similar characteristics to the village of Bosbury; ideally being located in a small rural area with limited amenities and no real employment base and with a small town some 4 miles away.

However, if the comparative site is a street in Redditch (Meadowhill Road – see appendix F) only 9 minutes walk from the vibrant Town Centre and with many varied and frequent public transport options on its doorstep including the main train station only 0.8 miles away (therefore a comfortable walk or cycle trip). The Kingfisher shopping centre is about 10 minutes walk away where there is 1,100,000 square feet of retail space with over 110 stores, many banks, food outlets and a cinema and is one of the largest covered shopping centres in the United Kingdom. This level of amenities cannot be found within the village of Bosbury (if not the County!). Unlike the Redditch site, there is also no public transport that can be used to get to work, and no real employment base to walk or cycle to so the vast majority of people will be commuting by car (mostly 1 per car) to their employment.

To correlate the traffic patterns from this street in Redditch to Bosbury Village is therefore clearly absurd. The entire of section 5 of the transport statement and Key Point number 8 in section 6 is based on numbers from a single survey done in Redditch on the Tuesday after the Bank Holiday Monday in 2006 (a day when many people may have taken time off work anyway). This single date, coupled to the high level of amenities and significant employment base very nearby is why the figures in table 5.1 show such high pedestrian volumes (just under a third of all trips) and diminished car use.

Their own conclusion (derived from the Redditch survey data) that only 15 cars would leave the new development in Bosbury (with 104 cars in it) between 08:00 and 09:00 on a weekday morning is therefore wrong as the figure should be significantly and materially higher.

It is worth noting that the Hope End Ward 2011 Census Key Statistics Document that has been used and referenced by WYG Group in this Statement contains a much more recent, relevant and accurate breakdown of Transport modes for the Bosbury LSOA. They have chosen to ignore it and work with the 2006 Redditch data which has provided much more advantageous figures for the applicant.

The 2011 Census data shows that over 80% of Bosbury LSOA residents travel to work by car or van which would result in the total journeys in and out any time of the day being considerably higher than calculated by the applicant.

In conclusion, the Transport Statement is fundamentally flawed and misleading.

Flood Risk Assessment (FRA)

The FRA has some fundamental issues. Much of the area directly above (east of) the site including the Forge Bank garage area and bungalow area further to the east is wholly impermeable and drains directly into the site during rain. Also, the land further to the east/south east of the site all the way to Southfield Lane plus land to the south (both within the same field and in the hopyard beyond the site) all drain quickly into the site area during periods of heavy rain and standing water is present for days. This drainage pattern is immediately obvious from a visual inspection of the land as a natural valley exists running east to west down the hillside from Southfield Lane to Old Mill lane and the hopyard to the south also slopes steadily towards the proposed development site for some distance.

However, although the applicant confirms that the land is impermeable from their own walkover survey, they have failed to consider this site “run on” in any of their calculations or conclusions.

The actual catchment area including the development site itself totals some 3.5 times that which has been detailed within the applicant's document to be used as a basis for the calculations within it. This means that the figures produced to demonstrate the low level of run-off are wholly inaccurate with the result that the proposed retention pond is much too small.

At point 3.5 the FRA states *"The EA have been consulted and advised that they hold no information of historic flooding"* yet the EA themselves have published papers on the 2007 summer floods in the immediate area. With regards to other records, the EA Summer Floods 2007 paper states *"In July, flooding in Bosbury was reported to be as high as in Easter 1998"* therefore demonstrating further records do exist going back to earlier flood events.

Furthermore at point 3.8 the FRA states *"The SFRA does not highlight surface water flooding as a risk in Bosbury – Low risk"*. Despite this assertion from the applicant, Bosbury is described three times in the Herefordshire Strategic Flood Risk Assessment (SFRA), those are as follows:

"Smaller settlements with a significant history of flood disruption include Bosbury, Eardisland, Ewyas Harold, Hampton Bishop, Hereford, Kington, Leintwardine, Leominster and Ross-on-Wye. Emergency planning and future development proposals should take particular account of these settlements with regard to avoidance of increased flood risk."

"The most rapidly responding catchments in the SFRA area are the Wriggle Brook, Back Brook, Honddu, Lower Monnow and the Upper Leadon. Any development proposed adjacent to the floodplain in these catchments will have to take special account of flood risk imminence. The settlements most at risk from sudden flood peaks and which are most likely to be affected by inadequate warning are Ewyas Harold (Dulas Brook not modelled), Bosbury, Ledbury, Bromyard and Kington."

"Principal villages where there are reported flooding issues include Orleton and Brimfield on the Gosford Brook, and Bosbury on the River Leadon."

The assertion of LOW RISK in the FRA is therefore incorrect as there is a clear and documented risk of surface water flooding in Bosbury. Equally the comments within the SFRA stating *"future development proposals should take particular account of these settlements with regard to avoidance of increased flood risk."* are ignored by the applicant and the proposal is therefore contrary to UDP Policy S2 Paragraph 5 as well as DR7 Paragraph 5.

As the FRA has not considered the proper catchment area of the water entering the site, the numerous public records of significant flooding throughout Bosbury village, and the relevant information in Herefordshire Council's Strategic Flood Risk Assessment regarding flooding in the village it is considered that it is seriously flawed. A revised FRA should therefore be submitted that addresses these concerns.

Pre-Application Consultation

Paragraph 188 of the framework states that "early engagement has significant potential to improve the efficiency and effectiveness of the planning application system for all parties. Good quality pre-application discussion enables better coordination between public and private resources and improved outcomes for the community."

However the consultation carried out by the applicant was barely a token gesture despite what has been claimed. They merely attended one Parish Council meeting to make a "presentation" to the Councillors and attended without any site plans showing any houses or layouts or any supporting information. The only information 'displayed' was an A3 location plan with the site outlined in red. There was not even more than one copy so that all the Councillors could view

the plans. On being asked if they would come back for some proper public consultation they stated they would not. The Parish Council and the community is very disappointed with this level of consultation as it has wholly failed to deliver “better coordination between public and private resources and improved outcomes for the community”.

The above concerns significantly outweigh any benefits the proposal has in terms of housing numbers, resulting in an unsustainable form of development contrary to national and local planning policy. The Parish Council therefore strongly object to the application and consider it should be refused.

5.2 Campaign to Protect Rural England: Object to the application. In summary the points raised are as follows:

- Concerned that the proposal is out of scale with the existing village.
- The site is outside of the settlement boundary.
- The proposal is contrary to the emerging Core Strategy which, on the basis of 14% growth, would amount to approximately 20 dwellings for Bosbury.
- Limiting growth would avoid risk of flooding.
- Development of the scale proposed would increase pressure on the primary school and sewage works.

5.3 Bosbury C.E Primary School: Has no objection in principle to increasing the number of houses within its catchment area but are concerned about the increased risk of flooding for the school building. It is considered that this far outweighs the benefits that the school might gain.

5.4 Sixty six letters of objection have been received from local residents. In summary the points raised are as follows:

Impacts on the character and setting of the village

- The size of the development is too large for Bosbury.
- Detrimental impact on the historic core of the village, including the conservation area and listed buildings that border the site.
- The village is linear and it is not until Forge Bank that this changes.
- The depth of development does not reflect the grain or pattern of the historic buildings in the village.
- The view of the Grade I listed church would be obscured from several directions. It can currently be seen in its rural setting to the south and east of the village.
- The proposal represents a 32% growth of the village and is a disproportionate expansion that would harm its character and setting.
- The site currently offers uninterrupted views of the village to walkers using the footpath that borders to the west. These views would be seriously compromised by the development.
- The proposal would be detrimental to the amenities of the properties that border the site.

Sustainability

- The village has insufficient facilities to support the amount of development proposed.
- A need to drive to shops in Ledbury.
- The village has a limited bus service.
- Insufficient capacity within the village’s existing infrastructure, particularly the sewage treatment works.
- Insufficient capacity within the village school.

- The current proposal is unsustainable and a smaller number of properties should be considered.
- There is no local employment available and Bosbury would become a dormitory village.
- The proposal would result in the loss of good grade agricultural land.

Highway Matters

- Poor access off Forge Bank and through Upper Court Road for private and emergency vehicles.
- Single point of access will become severely congested.
- The width of Forge Bank and Upper Court Road are less than the minimum requirements set out in the Council's Highways Design Guide. Width is further reduced by existing on-street parking.
- Additional traffic will increase the risk of traffic accidents, particularly with children living at Forge Bank and walking to school.

Flood Risk

- Present Environment Agency flood zone designations do not accurately reflect recent flood events.
- The site is prone to flooding from excess surface water.
- The flood risk assessment is fundamentally flawed as it does not mention recent flood events.
- The existing drainage system is inadequate and overflows during periods of heavy rainfall.

Environmental Concerns

- The proposal would result in increases in noise, light and air pollution.
- The proposed housing does not appear to be environmentally friendly.
- The scheme would result in the loss of a Greenfield site. A sequential approach has not been adopted.
- There are other sites available that are better suited to smaller scale development.

Other Issues

- The proposed location of the play area is remote from the dwellings and does not relate well to properties on Upper Court Road, contrary to Policy H19 of the UDP.
- The Council's SHLAA states that the site has 'significant constraints'
- The concerns raised significantly outweigh any benefits that the proposal might bring and would result in an unsustainable form of development contrary to national and local planning policy.
- The ecological significance is dismissed yet the site provides an important habitat for a number of bird species.
- The proposal is contrary to the emerging Core Strategy.

5.5 Further comments have been submitted by the applicant's agent following the expiry of the consultation period. In summary the points raised are as follows:

The benefits of the proposals include:

- the provision of up to 46 much needed new homes for the village supporting an increased population;
- the provision of 35% affordable housing, providing up to 16 homes to meet local needs;

Further information on the subject of this report is available from Mr A Banks on 01432 383085

- the provision of a mix of two, three and four/five bedroom properties reflecting the local need and market requirements;
- the provision of 0.31 hectares of new public open space which could incorporate a new play area;
- the potential to create a pedestrian footpath loop around the village by linking the footpath at the end of Upper Court Road with the lane on the western boundary, providing improved accessibility for residents; the creation of a more effective transition between the village and the countryside with new planting both within the development and along the western and southern boundaries of the site; and
- Growth in the village population which will help to support and sustain local retail and community facilities as well as the bus service.

Their response also comments that the site is sustainable and that the draft Local Plan identifies Bosbury as a village that is suitable and capable of accommodating growth, helping to support the local services and facilities and enhancing the sustainability of the community.

With regard to objections raised about the accuracy of the Transport Statement they comment that the TRICS filtering process has been carried out in accordance with Best Practice Guidance. The application is not of a scale to trigger the need for a full Transport Assessment and the scale of development is considered to be below the threshold even requiring a Transport Statement, although for completeness one has been provided in this instance.

Their further comments acknowledge that existing land and buildings not part of the development site, in particular the school, are at fluvial or surface water flood risk in extreme flooding events. However, the proposed development will not worsen this situation due to the implementation of all appropriate mitigation and drainage strategies outlined in the Flood Risk Assessment. The potential risk of exceedance flows from adjacent agricultural land and the Upper Court Road area, flowing across the site, will be managed to ensure they are routed away from new properties and the school, towards areas of low vulnerability to the south west.

With regard to the impact of the development on heritage assets, the agent highlights that their Supplementary Heritage Assessment concludes that the proposed development may lead to a slight loss or reduction in the significance and character of the Conservation Area and the setting of listed buildings, but would constitute significantly less than substantial harm to as defined by the NPPF. Their comments conclude that the benefits of the proposals far outweigh the impacts on heritage assets and as such the application should be approved.

- 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

Principle of Development

- 6.1 The issue of the Council's lack of a five year housing land supply has been well rehearsed over recent months by other applications and appeal decisions for residential development on land outside of settlement boundaries identified by Policy H4 of the Herefordshire Unitary Development Plan (HUDP). This application is submitted on the same basis.
- 6.2 In order to establish a degree of consistency in the absence of housing policies that are considered to be up-to-date with the National Planning Policy Framework (NPPF) the Council has adopted an interim protocol for the consideration of applications that would otherwise be contrary to Policy H7 of the HUDP. It accepts that appropriate residential development outside

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the development boundaries of main settlements may be permitted to help address the housing shortfall, subject to all other material planning considerations, and specifies that sites should be located adjacent to main settlements defined by Policy H4 of the HUDP. This approach is consistent with the NPPF which presumes in favour of sustainable development.

- 6.3 In simple geographic terms the site is compliant with the interim protocol as it is immediately adjacent to Bosbury's settlement boundary. The village continues to be identified as one that is appropriate for proportionate growth in the emerging policies of the Core Strategy and is considered to be sustainable in accordance with the NPPF. The determination of this application therefore rests with other material planning considerations and whether they outweigh the Council's lack of a five year housing land supply. These will be assessed in the following paragraphs.

Impact upon Heritage Assets

- 6.4 The heritage assets that are potentially affected by the proposal are the conservation area, the Grade I listed Holy Trinity Church and other listed buildings that either bound or are within proximity to the application site. The impact on the setting of the listed buildings must be considered in accordance with policy HBA4 and, although the site is just outside the boundary of the conservation area, policy HBA6 is also considered to be relevant. The foundation of both policies is that development that adversely affects the setting of a listed building or conservation area should not be permitted. Amongst the criteria for assessing impacts on listed buildings are the scale of the development proposed. Policy HBA6 also relates to scale, but also the plan, form and density of development proposals, advising that such matters should successfully integrate into the locality.

- 6.5 The NPPF provides further advice about heritage assets. Paragraph 132 advises that:

When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting.....

Substantial harm to or loss of a grade II listed building, park or garden should be exceptional. Substantial harm to or loss of designated heritage assets of the highest significance, notably scheduled monuments, protected wreck sites, battlefields, grade I and II listed buildings, grade I and II* registered parks and gardens, and World Heritage Sites, should be wholly exceptional.*

- 6.6 The Council's Historic Buildings Officer has objected to the application advising that, whilst the proposal would not obliterate the views of the Grade I listed church and belltower, the views of them would be altered significantly. Concern that the continued legibility of the historic core of the village would be lost through further development of the village to the south as proposed is also identified.

- 6.7 It is acknowledged that the church and belltower are of considerable significance as Grade I listed buildings and therefore the impact upon them has to be very carefully assessed. It is considered that the critical viewpoint to substantiate the concerns raised by the Council's Historic Buildings Officer is from Southfield Lane, which runs approximately north / south to the south east of the application site. It is characterised by high, well established field hedges with very few gaps. The lane has been walked and driven by the case officer during the spring and summer and the views of the site are exceptionally limited. The intervisibility between the site and lane is further influenced by the topography of the surrounding area. The residential areas of Upper Court Road and Forge Bank are located on a high point between 75m and 80m AOD. The majority of the site is much lower – between 65m and 70m AOD.

- 6.8 The historic core of the village is characterised by properties adjacent to the road frontage with very few gaps. Consequently there are very limited opportunities for views from the centre of the village and the precincts of the church in a southerly direction over the application site. The only opportunity for a glimpse of the site is where the public footpath emerges onto the B4220, a gap of 4 metres between buildings.
- 6.9 Whilst acknowledging the comments made by the Historic Buildings Officer it is considered that, subject to its detailed design, the proposal would not be visually prominent from public vantage points to the south. It will sit on lower lying land and would be obscured from view from public vantage points by existing vegetation and thus would not disrupt the legibility of the historic core of the village in a manner that would cause substantial harm. Some concerns have been raised by objectors about the possible design of the dwellings but, as this is an outline application which reserves detailed design for future consideration, this is not a matter that can be considered at this stage. Whilst any development will inevitably bring about a change to the surrounding area, it is considered that the impact upon the setting of the conservation area and its listed buildings, including the church and belltower, will be limited. The proposal would not lead to substantial harm to their setting and therefore this would not outweigh paragraph 14 of the NPPF which states that for decision making the presumption in favour of sustainable development means:
- where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:*
- *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or*
 - *specific policies in this Framework indicate development should be restricted.*
- 6.10 The scheme does represent a significant addition to the village in terms of the quantum of development, and at a 32% increase in housing stock, does exceed the projected proportionate growth as outlined by Policy RA1 of the emerging Core Strategy. However, there have been a number of objections to this policy and therefore it has no weight in the determination of this application.
- 6.11 It is not considered that the impacts on the conservation area or the listed buildings are significantly adverse for the reasons given above and therefore do not outweigh the benefits of granting planning permission in order to contribute to the meeting of the Council's five year housing land supply.

Sustainability & Service Capacity

- 6.12 Bosbury is considered to be a sustainable settlement. It is identified as a main settlement in the HUDP and has a primary school. In a rural context, the expectation that a settlement will only be sustainable if it contains a wider range of services is considered unrealistic and would, taken to the extreme, limit further residential development to the market towns and very few of Herefordshire's villages.
- 6.13 Some of the correspondence received suggests that existing services are currently at capacity and will be unable to accommodate the development proposed, with particular reference made to the school and sewage treatment plant. Other correspondence notes that the local bus services are likely to be cut.
- 6.14 The Draft Heads of Terms attached as an appendix to this report makes provision for education contributions. Notably, the comments from the head teacher of Bosbury Primary School raise no objection to the principle of increasing housing numbers within the school's catchment. Furthermore, the advice from the Council's education department is that only

three year groups at Bosbury Primary School are currently at capacity with a projected intake for the next school year of 20.

- 6.15 Notwithstanding concerns raised about the capacity of the existing sewerage system, Severn Trent has not objected to the application. This would imply that they are content that there is sufficient capacity within the existing foul system to accommodate a development of this scale.
- 6.16 In this context the available evidence does not indicate that there are any fundamental infrastructure capacity issues that cannot be mitigated.

Highway Impacts

- 6.17 Paragraph 32 of the NPPF is key to the highway impact debate where it states:

Plans and decisions should take account of whether improvements can be undertaken within the transport network that, cost effectively mitigate, the significant impacts of the development. Development should only be presented or refused on transport grounds where the residual cumulative impacts of the development are severe.

- 6.18 The Transportation Manager has visited the site and has considered the contents of the Transport Statement that accompanies the application, and has raised no objection to the proposed use of Upper Court Road and Forge Bank to gain access to the site. The estate road is considered to be of sufficient width to accommodate the additional traffic that would be generated by such a proposal and the junction with the B4220 offers good visibility in both directions.
- 6.19 The location of the public footpath and possible link to the centre of the village offers an opportunity for good connectivity between the application site and the primary school. It also offers a wider benefit in terms of connectivity to existing residents on Upper Court Road and Forge Bank as it would provide a safer pedestrian route to the school, avoiding the need for parents and children to walk along the B4220.
- 6.20 In conclusion, the proposal will not result in severe impacts on the highway network and the pedestrian connectivity that would result between Upper Court Road, Forge Bank and the centre of the village is considered to be a benefit of the development. The proposal is compliant with Policies H13 and T8 of the HUDP and the advice given by the NPPF.

Flood Risk

- 6.21 Paragraph 103 of the NPPF advises that, when determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere as a consequence of the development proposed. It also requires that development is appropriately flood resilient and resistant, including safe access and escape routes where required. It also gives priority to the use of sustainable drainage systems. The HUDP is considered to be up to date with the NPPF with respect to flood risk as these objectives are reflected by Policy DR7.
- 6.22 The Environment Agency's Flood Map shows the site is located in the low risk Flood Zone 1. The applicant has prepared a site specific Flood Risk Assessment (FRA) that concludes that the proposed development is located in Flood Zone 1 although it acknowledges the proximity of the development to Flood Zone 3 associated with the River Leadon to the east of the site. The applicant has considered the potential effects of climate change on the depth and extent of Flood Zone 3 by adding 300mm to the current predicted flood level of 66.9m AOD to provide a future flood level of 67.20m AOD. To mitigate any future increase in flood risk to the proposed development the applicant is proposing to locate building floor levels at a minimum level of 67.50m AOD – 300mm above the predicted future flood level for the 1 in 100 year event.

- 6.23 The Indicative Masterplan indicates that access to the development will be achieved from the east of the site on land in Flood Zone 1. Topographical evidence shows that this ground level is significantly higher and therefore emergency access and egress would be available during extreme flood events.
- 6.24 The amended FRA includes a proposed surface water drainage strategy and proposes to discharge surface water runoff from the proposed development to the River Leadon to the west of the site. This will be achieved either by discharging to an existing ditch or via a new surface water sewer. This approach is accepted by the Council's Land Drainage Engineer, subject to the submission of further information as required by condition.
- 6.25 There is known to be a localised flooding issue within Bosbury with surface water collecting on the B4220 in the centre of the village, flooding the properties facing the church and the school. The Land Drainage Engineer advises that the highway drainage is insufficient to deal with the volume of water. This is partly due to the water levels in the River Leadon and partly because the capacity of the drainage system is too small. As the development is proposing to utilise a new surface water drainage system that is independent of the existing system within the village it is considered that the proposal will have no adverse impact on existing flood risk from this source. It will not exacerbate an existing problem.
- 6.26 The FRA states that runoff from the developed site will be attenuated within an attenuation pond located in the south-west corner of the site. The pond will be sized for the 1 in 100 year event with an appropriate allowance for climate change. The applicant also intends to create a wetland habitat within the proposed pond by directing flows from adjacent development directly to the pond. This approach is welcomed by the Land Drainage Engineer who acknowledges the biodiversity benefits that this could achieve.
- 6.27 It is therefore concluded that, subject to the imposition of conditions as recommended by the Council's Land Drainage Engineer, the proposal is compliant with Policy DR7 of the HUDP and paragraph 103 of the NPPF.

Other Matters

- 6.28 Some of the letters of objection comment on the position of the proposed play area and express the view that it is remote from the rest of the development. Although it must be stressed that the application has been made in outline and that layout is reserved for future consideration, the rationale is that it is located on rising land. It is kept free from development to mitigate impacts on the setting of the conservation area and listed buildings and also links with an existing area of open space immediately to the east. Although its position would not be compliant with policy H19 in terms of the indicative layout shown, there are other matters that have led to its location.
- 6.29 The loss of good quality agricultural land has also been raised as a concern by some objectors. A recent appeal decision for residential development at Feniton, East Devon provides some useful guidance on the matter. The Inspector noted that all of the three sites to which the appeal related were Grade 2 agricultural land and considered their loss against Paragraph 112 of the NPPF. It advises that the economic and other benefits of such land should be taken into account, The Inspector considered that the loss of good quality agricultural land is an adverse impact to be weighed in the overall planning balance. In this particular case the proposal would result in the loss of 2.64 hectares of agricultural land and it is not considered that its loss carries such significant weight when balanced against the lack of a five year housing land supply.
- 6.30 The application has been accompanied by an ecological survey, completed by an appropriately qualified ecologist. This does not find any evidence of protected species being present on the site but acknowledges that there is a potential for habitat enhancements,

particularly through the provision of nesting boxes for barn owls. The survey has been assessed by the council's ecologist and he does not object to the scheme, subject to the habitat enhancements proposed, and the implementation of further habitat enhancements to be agreed by condition. These may specifically relate to the areas around the attenuation pond and the southern boundaries of the site. The comments of the council's ecologist are reflected by the recommendation and the scheme is considered to be compliant with policy NC8 of the UDP and the NPPF.

Conclusion

- 6.31 The Council cannot demonstrate a five-year supply of housing land with the requisite buffer. The housing policies of the HUDP are thus out of date and the full weight of the NPPF is applicable. HUDP 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.
- 6.32 When considering these three points, it is considered that the scheme represents sustainable development and therefore there is a presumption in favour of development. The site lies outside but directly adjacent to Bosbury. The village has been identified as a main settlement in the HUDP and whilst recognising the limited weight afforded to the Core Strategy it continues to be considered as a sustainable settlement under Policy RA1.
- 6.33 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 and the uplift in Council Tax receipts should also be regarded as material considerations. By supporting local facilities and in providing a greater supply of housing and breadth of choice, including 35% affordable, it is considered that the scheme also responds positively to the requirement to demonstrate fulfilment of the social dimension of sustainable development.
- 6.34 Of the other material planning considerations that have been identified through the consultation process and responses from consultees and members of the public, it is not considered that any carry such significance as to outweigh the presumption in favour of sustainable development. The revisions made to the FRA and drainage strategy have resolved the original concerns raised by the Land Drainage Engineer and, whilst development will inevitably increase traffic movements through Upper Court Road and Forge Bank, and at its junction with the B4220, these impacts are not considered to be severe.
- 6.35 The impacts of the development upon heritage assets - the setting of the conservation area and listed buildings; including the Grade I listed Holy Trinity Church and bell tower, have been given especial weight as a material planning consideration. Notwithstanding the concerns raised by the Council's Historic Buildings Officer, it has been concluded that due to the site's visual relationship with the rest of the village, the topography of the surrounding area and the limited visual interdivisibility between the site and historic core of the village, the proposal would not cause substantial harm and as such is compliant with paragraph 132 of the NPPF and therefore there is a presumption in favour of the development as one, which has previously been accepted, is sustainable.
- 6.36 As such it is advised that there are no matters of such weight that would justify the refusal of this application and the impacts associated with granting planning permission can be addressed through the imposition of appropriately worded conditions. The proposal accords with those saved policies of the HUDP that are compliant with the NPPF, and consequently with the Framework itself. It is therefore recommended that planning permission be granted subject to the completion of a Section 106 Agreement and the imposition of conditions.

RECOMMENDATION

Subject to the completion of a Section 106 Town and 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. **A05 Plans and particulars of reserved matters**
5. **The recommendations set out in Section 4.2 of the ecologist's Phase 1 Habitat report dated May 2014 and Section 4.2 of the Ecologist's reptile survey report dated May 2014 should be followed unless otherwise agreed in writing by the local planning authority. Prior to commencement of the development, method statement for protected species mitigation 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.

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

6. **The recommendations set out in Section 4.3 the ecologist's Phase 1 Habitat report dated May 2014 should be followed unless otherwise agreed in writing by the local planning authority. Prior to commencement of the development, a habitat protection and enhancement scheme should be submitted to and be approved in writing by the local planning authority, and the scheme shall be implemented as approved.**

An appropriately qualified and experienced ecological clerk of works should 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 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 National Planning Policy Framework and the NERC Act 2006.

7. **No development shall take until a detailed Surface Water Drainage Scheme has been submitted to and approved in writing by the local planning authority. The Scheme shall be implemented in accordance with the approved details prior to the occupation of any of the dwellings hereby permitted. The scheme shall include:**

Further information on the subject of this report is available from Mr A Banks on 01432 383085

- **Demonstration of consideration given to reducing runoff during smaller rainfall events and providing additional treatment prior to discharge.**
- **Demonstration that infiltration of surface water runoff to ground will be maximised where appropriate, informed through investigation of soil infiltration rates and groundwater levels.**
- **Details of the proposals for adoption and maintenance of the surface water drainage system.**

Reason: To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding to comply with Policy DR7 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework.

- 8. L01 Foul/surface water drainage**
- 9. L02 No surface water to connect to public system**
- 10. L03 No drainage run-off to public system**
- 11. I26 Interception of surface water run off**
- 12. G17 Provision of open space and play areas (outline permissions)**
- 13. G04 Protection of trees/hedgerows that are to be retained**
- 14. H17 Junction improvement / off site works**
- 15. H21 Wheel washing**
- 16. H27 Parking for site operatives**
- 17. Prior to the commencement of the development hereby approved a Construction & Delivery Traffic Management Plan shall be submitted to and approved in writing by the local planning authority. The plan shall be implemented in accordance with approved details upon the first commencement of the development hereby approved.**

Reason: In the interests of highway safety so that potential conflicts between construction and school traffic are avoided and to comply with Policy DR3 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework

- 18. The development shall not begin until a scheme for the provision of affordable housing as part of the development on the site, has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme which shall include:**
 - 1) The numbers, type, tenure and location on the site of the affordable housing provision to be made;**
 - 2) The arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing, if no Registered Social Landlord is involved;**
 - 3) The arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and**

Further information on the subject of this report is available from Mr A Banks on 01432 383085

- 4) The occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

Reason: To secure satisfactory affordable housing provision in accordance with saved Policy H9 of the Herefordshire Unitary Development Plan 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, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
2. N11A Wildlife and Countryside Act 1981 (as amended) - Birds
3. N11C General
4. HN04 Private apparatus within highway
5. HN28 Highways Design Guide and Specification
6. HN05 Works within the highway
7. HN07 Section 278 Agreement

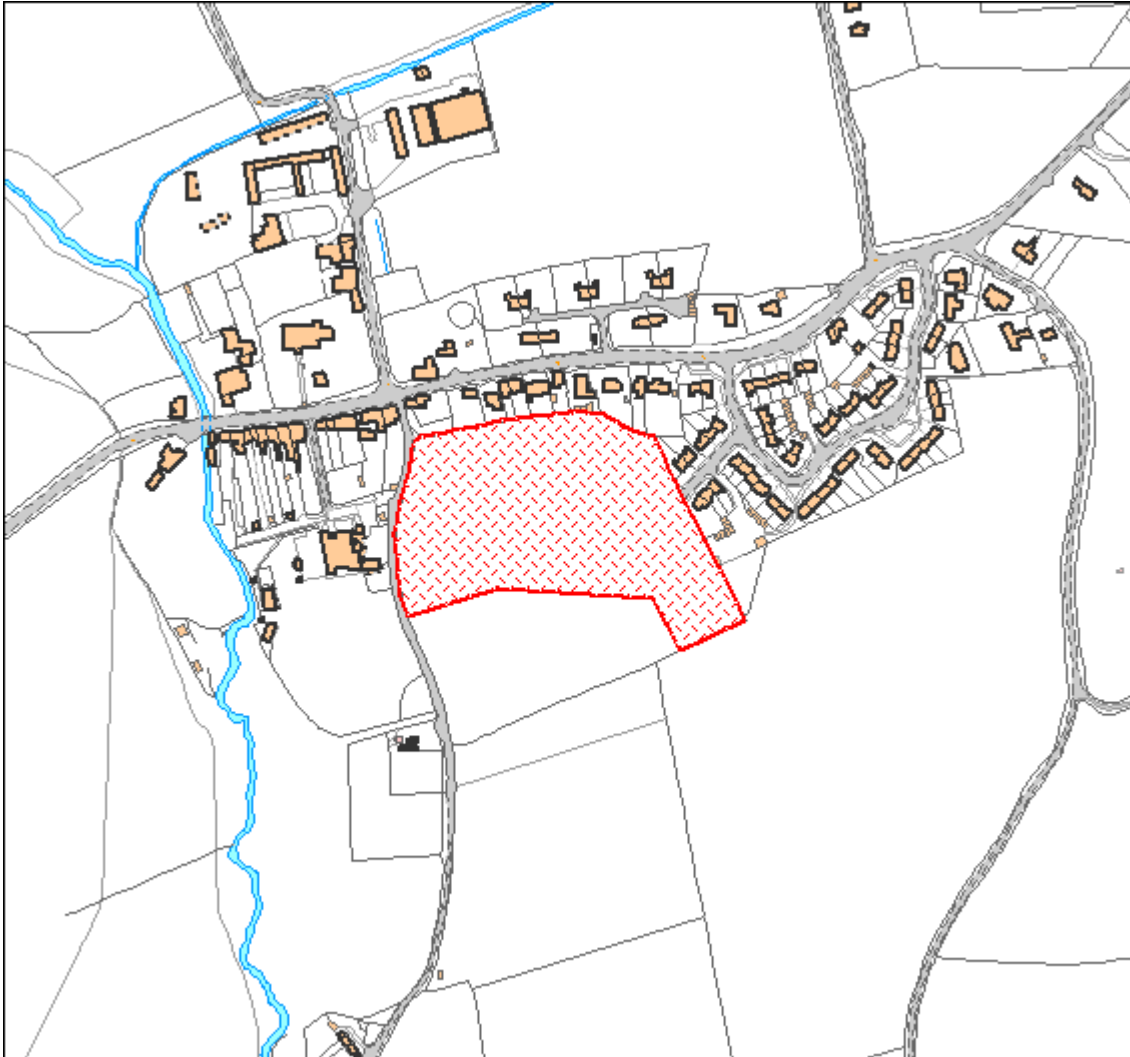
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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

APPLICATION NO: 141550/O

SITE ADDRESS : LAND WEST OF UPPER COURT ROAD, BOSBURY, LEDBURY, HEREFORDSHIRE

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Further information on the subject of this report is available from Mr A Banks on 01432 383085

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 1st April 2008. All contributions in respect of the residential development are assessed against general market units only.

Planning application reference:

Application for outline planning permission with all matters reserved (except access) for up to 46 dwellings, a new access from Upper Court Road together with open space, parking and associated infrastructure on land west of Upper Court Road, Bosbury, Herefordshire.

1. Where need can be justified, 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 apartment 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

The contribution will provide enhanced educational infrastructure at Bosbury Primary School, St Josephs RC Primary School, John Masefield Secondary School, St Marys RC High School, Early Years, Post 16, Youth Services and Special Education Needs. The sum shall be paid on or before the occupation of the 20th market unit, and may be pooled with other contributions if appropriate.

2. Where need can be justified, the developer covenants with Herefordshire Council to pay Herefordshire Council the sums of (per open market unit):

£1,967.00	(index linked) for a 2 bedroom open market unit
£2,952.00	(index linked) for a 3 bedroom open market unit
£3,933.00	(index linked) for a 4+ bedroom open market unit

The contribution will provide sustainable transport infrastructure to serve the development, which sum shall be paid on or before the occupation of the 20th market unit, and may be pooled with other contributions if appropriate.

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

- a) Traffic calming and traffic management measures in the locality.
- b) New pedestrian and cyclist crossing facilities.
- c) Creation of new and enhancement in the usability of existing footpaths and cycleways connecting to the site.
- d) Provision of and enhancement of existing localised bus infrastructure.
- e) Public initiatives to promote sustainable modes of transport.
- f) Safer routes to school.

3. Where need can be justified, the developer covenants with Herefordshire Council to pay the sum of:

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

The contribution will be for sports (contribution based around the requirements of policy H19 and RST4 of the UDP and Sport England Sports Facilities Calculator). The monies shall be used by Herefordshire Council to improve indoor and outdoor sports facilities in the locality in accordance with the draft Playing Pitch Assessment. The sum shall be paid on or before the commencement of development, and may be pooled with other contributions if appropriate.

4. Where need can be justified, the developer covenants with Herefordshire Council to pay Herefordshire Council the sum of:

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

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

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 Bosbury. The sum shall be paid on or before occupation of the 1st open market dwelling, and may be pooled with other contributions if appropriate.
6. 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, or the Parish Council, or other appropriate management body. 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 need to be transferred to the Council with a commuted sum calculated in accordance with the Council's tariffs over a 60 year period.

7. The developer covenants with Herefordshire Council that 35% (16 units – on basis of development of 46) 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. 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 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:-

- 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 paragraphs 10 & 11 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 whom has:-
 - 10.1 a local connection with the parish of Bosbury and Coddington
 - 10.2 in the event there being no person having a local connection to the parish of Bosbury and Coddington a person with a connection to the adjacent parishes;
 - 10.3 in the event of there being no person with a local connection to the above parishes 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 9.1 above.
11. For the purposes of sub-paragraph 10.1 and 10.2 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 because of special circumstances.
12. The developer covenants with Herefordshire Council to construct the Affordable Housing Units to the Homes and Communities Agency 'Design and Quality Standards 2007' (or to 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.
13. The developer covenants with Herefordshire Council to construct the Affordable Housing Units to Code Level 4 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 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.
15. 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.

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.

6 June 2014



MEETING:	PLANNING COMMITTEE
DATE:	19 NOVEMBER 2014
TITLE OF REPORT:	P142450/O - SITE FOR ERECTION OF DWELLING AT MYRTLEFORD COTTAGE, LEDGEMOOR, WEOBLEY, HR4 8RJ For: Miss Watkins per Mr Colin Goldsworthy, 85 St Owen Street, Hereford, Herefordshire, HR1 2JW
WEBSITE LINK:	https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=142450&search=142450

Date Received: 11 August 2014

Ward: Wormsley Ridge

Grid Ref: 341456,250360

Expiry Date: 30 October 2014

Local Members: Cllr AJM Blackshaw

1. Site Description and Proposal

- 1.1 The application site lies within a cluster of houses within the hamlet of Ledgemoor approximately 2km to the south east of Weobley. The application site comprises the north-west part of the existing garden that serves Myrtleford Cottage, a one and a half storey stone cottage, with its rear elevation to the private lane.
- 1.2 The application seeks outline planning permission for a single dwelling with all matters except for access reserved for future consideration. The plot would be 23m by 24.5m (563 sqm) in size and is broadly rectangular. The application site includes the proposed access to the site that comprises a single width lane with grass verge that currently serves the four dwellings to the north-west (Sunnyside, Trevadoc, Pixie Comb and Blenheim Cottage). Accompanying the application is a supporting letter from the applicant's agent that advises the following:

'This cottage is owned by the mother of the applicant and the new dwelling will allow the applicant to be able to look after her mother and for them both to maintain independence of each other.

Mother and daughter are both born in Herefordshire and have always been residents in the area. The applicant has sold her existing house and has cash in hand with which to build the new house and is keen to live as close as possible to her mother. She has looked at local properties none of which are affordable and this solution allows the affordability of the project.

The applicant works in Hereford as a nurse in the local hospital

Access to the dwelling would be via the private drive adjacent to Myrtleford Cottage. The owner of this drive is unknown and we have therefore issued a notice in the Hereford Times to try and locate them. Various people have tried to locate the owner but to no avail.

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

The dwelling would be built to reflect the style and quality of Myrtleford Cottage and the landscaping tied in to suit the gardens that currently exist'

2. Policies

2.1 National Planning Policy Framework (NPPF)

In particular paragraphs 6, 7, 8, 14, 17 and 55.

2.2 Herefordshire Unitary Development Plan (HUDP)

S1	-	Sustainable Development
S6	-	Transport
DR3	-	Movement
H7	-	Housing in the Countryside Outside of Settlements

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

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

2.3 Herefordshire Local Plan Core Strategy

SS1	-	Presumption in Favour of Sustainable Development
SS4	-	Movement and Transportation
RA3	-	Herefordshires Countryside

2.4 Pyons Group Neighbourhood Plan

A Neighbourhood Area was designated in 25 July 2013

3. Planning History

3.1 None

4. Consultation Summary

Statutory Consultees

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

Internal Council Advice

4.2 The Transportation Manager has no objection to the grant of planning permission.

5. Representations

5.1 Pyons Group Parish Council has made the following comments:

- The outline application needs to be clear that the lane that is proposed for access is not part of the property boundary. The parish council understands that the proposed access lane is privately owned but that at present the owner cannot be identified.

- There needs to be appropriate arrangements made for the treatment of sewage, which the parish council understands will need to take the form of either a septic tank or sewage treatment on-site, and which takes into account the lie of the land and neighbouring properties.
- The applicant needs to commit to share the costs of maintenance of the lane equally with the other four (4) properties on the lane. Should the development go ahead, this will mean a 20 percent contribution to the maintenance costs.
- Should the development go ahead, access to the lane needs to be clear at all times with minimum disruption.
- Should the application go ahead, any damage to the verge and lane caused during construction should be made good by the applicant

5.2 Letters of support have been received from the following:

- Mrs Brenda Watkins, Myrtleford Cottage, Ledgemoor
- Mrs Agnes Hipkins, Whitehouse, Ledgemoor
- Mr and Mrs Webb, The Moat House, Neen Sollars, Kidderminster
- Mr and Mrs L Calder, Newton Farm, Hereford
- Mr Andrew Minshall, 47 Glebe Close, Credenhill
- Mr Faulkner, Oak View, Hereford Road, Weobley
- A English, Mortimer House, 19 Caste Street, Hay-on-Wye
- E Amos, The Weedlands, Westhope,

These letters raise the following issues:

- 'Referring to my daughter... I think it would be ideal if it was considered because we could both be independent, but yet she would be able to care for me in my own home should the matter arise'.
- No objection and thing that being able to live independently buy be close enough to offer security would offer peace of mind.
- The applicant needs to be close to her mother who is elderly.
- Building work might cause disruption but the final house would have look of village
- It would be infill.
- There are no affordable houses in the area.
- Lesley if of good character, honest and hardworking and supportive of traditional countryside values.
- Mother is no longer able to maintain her garden.
- Hereford hospital is an easy commute from Ledgemoor but can be close to mother

5.3 Letters of objection have been received from the following:

- Shaun Griffiths¹⁴ (Merestone Road, Hereford, formally of Sunnyside)
- Mrs B Blake, Blenheim Cottage, Ledgemoor,
- Mr and Mrs Best, Trevadoc, Ledgemoor
- Mr Best, 79 Hebron Road, Ledgemoor (Parents reside at Trevadoc)
- Edward Best, 1 New Street, Ledgemoor
- Mrs R Bowen, Brmaley Cottage, The Marsh, Weobley
- Mr and Mrs Brazier, Pixie Comb, Ledgemoor
- Mr and Mrs Griffiths, Sunnyside, Ledgemoor

These letters of objection raise the following issues:

- The land has poor visibility when exiting onto the Ledgemoor Road and visibility is often obstructed by parked cars. Greater highway safety risk associated by an increase in use of this access.
- Access is narrow and restricted in width at the entrance and is barely adequate for the dwellings it already serves.
- Maintenance of the land shared by the owners of dwellings that are served by the lane and access via this land should not be granted as additional use would increase maintenance responsibility.
- Additional permitted access would result in increased use of the land and increase in maintenance costs.
- Access should be via Myrtleford Cottage.
- Widening the access could result in flooding as there is a ditch that runs from the bottom of Myrtleford Cottage into the private road and down to Blenheim Cottage – any more surface water could greatly add to the problems locally. There is a high water table and a large pond to the rear of the lane bungalows.
- The property could result in a loss of light and privacy for Sunnyside. The plans do not accurately depict Sunnyside.
- An annexe to existing accommodation should be considered.
- This would be an overdevelopment / overcrowding of the area.
- The proposal is not in accordance with policy H7 or H8 of the UDP.

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 for outline planning permission and as such seeks to establish the acceptability, in principle, of development for one dwelling and the acceptability of the proposed access. The application outlines the 'reasoning' for the dwelling as detailed in paragraph 1.2 above.

Principle of Development

- 6.2 The application site lies outside of any main or smaller settlement identified by the HUDP policies H4 and H6 and as such is considered to be 'open countryside' - therefore policy H7 is applicable. This policy restricts residential development in such areas unless it meets the specified exception criteria. There is no evidence supplied with the application that would suggest that this proposal would comply with any of these exceptional criteria.
- 6.3 Given the Council's acknowledged lack of five year housing land supply, it is a requirement that proposals for new dwellings be considered in the context of Paragraph 14 of the NPPF and its presumption in favour of sustainable development. Paragraph 14 of the NPPF states that for decision making, the presumption in favour of sustainable development means:
- *"Approving development proposals that accord with the development plan without delay; and*
 - *Where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:*
- *any adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole;*

- *or specific policies in this Framework indicate development should be restricted.*”

- 6.4 In applying this paragraph it is necessary to consider whether the site’s location can, in itself, be considered sustainable. The site lies outside of any settlement identified in the HUDP, in a small hamlet of Ledgemoor. The nearest settlement is Weobley to the north-west, a settlement that provides services such as schools, shops, community buildings and employment opportunities. This village is in excess of 1.6km (by road), accessed along a country lane that is unlit and without footways for its majority. It is therefore considered that the site is relatively isolated from the services offered by Weobley and that in order to reach services and facilities necessary for most day to day living, there would therefore be a strong likelihood of a significant, if not complete, reliance on the use of the car. It would appear that there is no bus service to Ledgemoor with the Council’s website advising that the nearest stop is at Weobley, a 30 minute walk away. It is acknowledged that this would currently be the case for existing occupiers in the immediate vicinity but this is not sufficient justification alone for adding to this situation, through the addition of the proposed dwelling. A high level of reliance on the car would result in the likelihood of a greater level of greenhouse gas emissions compared to a similar development in a more sustainable location. This would be contrary to the NPPF which, in supporting the move to a low carbon future, promotes new development being located so as to reduce greenhouse gas emissions and therefore a pattern of development which, where reasonable to do so, facilitates the use of sustainable modes of transport. This is consistent with HUDP policy requirements of policy S1.
- 6.5 Paragraph 55 of the Framework promotes sustainable development in rural areas, ensuring that housing is located where it will enhance or maintain the vitality of rural communities. It also advises that planning authorities should avoid isolated new homes in the countryside unless there are special circumstances. This guidance is consistent with the aims and requirements of policy H7 of the HUDP and as such, weight can be attributed to policy H7 in this instance. It is also considered that the construction and occupation of one dwelling does not demonstrate that it would provide such significant or sufficient support and benefits to services and the economy in nearby villages to outweigh the concerns in respect of the sustainability of its location and it would therefore be contrary to Policies S1 and H7 of the HUDP. These policies together, in respect of this issue, state that sustainable development will be promoted by directing necessary new development to locations, settlements and sites that best meet the appropriate sustainable development criteria; and that proposals for housing development outside Hereford and other settlements defined in the HUDP will not be permitted unless various criteria are met. It would also be contrary to paragraphs 7, 8, 14 and 55 of the Framework which relate to the need for development to be sustainable.
- 6.6 As this application fails to meet the presumption in favour of sustainability ‘test’ then it must be considered in the context of paragraph 55 that does provide (as with HUDP policy H7) support for some residential development where it meets a special circumstance such as essential rural worker; facilitating the viable use of a heritage asset; reuse of a building; exceptional quality or innovative nature of the design. The supporting details submitted with this application for an open market, independent dwelling, do not demonstrate compliance with any of these special circumstances nor do they comply with the any exceptions within policy H7.
- 6.7 It is acknowledged that the proposed dwelling would make a very modest contribution to housing need and minimal contribution to the economy. Nevertheless I conclude that, notwithstanding the acknowledged shortfall in the housing land supply, the unsustainable nature of the proposal would significantly and demonstrably outweigh the benefits of the scheme when assessed against the policies in the Framework taken as a whole.
- 6.8 In terms of emerging policy, the Herefordshire Local Plan is currently in its pre-submission publication stage, awaiting examination in public next year.
- 6.9 If adopted in its current form, Ledgemoor would then be identified as a settlement that would support Local Need / Connection dwellings (policy RA2). However, based upon the level of

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

objections that have been received to policy RA2, it is not considered that any weight can be given to this policy at this stage. This said, it is advised that even if the application submission was considered in relation to this policy it would fail to provide the required evidence to demonstrate the development meets an identified housing need and would fail to comply with the proposed plot size limitation of 350sqm. There would also need to be a commitment to the dwelling being retained for identified local housing need in the future.

- 6.10 In relation to Neighbourhood Plans, the Pyons Group Parish Council, a neighbourhood area was designated on 25 July 2013 and work has commenced on a plan but this has not yet reached submission (Regulation 16) stage and as such cannot be attributed any weight in the decision making process.

Access

- 6.11 One of the key concerns of local residents relates to the use of the existing private land to accommodate an additional dwelling. The concerns about maintenance are noted but these are a civil matter that would need to be resolved between parties. The lane is a narrow single width track that currently serves the four dwellings to the north-west. Whilst visibility is fairly limited, the increase in traffic movements attributed to one dwelling is unlikely to lead to such an intensification that it would have a severe impact on highway safety. As such, having regard to the requirements of the NPPF and policy DR3 of the HUDP, a refusal on highway safety grounds is not advanced. The Council's Transportation Manager has raised no objection to this proposal.

Residential Amenity

- 6.12 Impact upon privacy and amenity has also been raised by immediate neighbours. The plot size is quite considerable, and there is scope to introduce a dwelling that could be sensitively designed to ensure that privacy and amenity of the adjoining neighbours is respected in accordance with policies DR2 and H13 of the HUDP.

Drainage

- 6.13 Local residents have also raised concerns in respect of surface water drainage and flood risk. It is considered that such matters can be adequately dealt with by condition requiring full details to be submitted and approved before any development is commenced.

Conclusion

- 6.14 To conclude, the application site lies outside of any defined settlement boundary in a location that is considered to be inherently unsustainable. The proposal does not demonstrate that it complies with any of the special circumstances detailed in Paragraph 55 of the NPPF or limited exception criteria policy within policy H7 which allow for residential development within open countryside. Furthermore the development is not considered to represent a sustainable form of development having regard to its location and the guidance contained within the National Planning Policy Framework that directs development to locations that are or can be made sustainable. Therefore the proposal is considered to be contrary to policies S1 and H7 of the Herefordshire Unitary Development Plan and guidance contained within the National Planning Policy Framework, particularly in paragraphs 7, 8, 14 and 55 and is recommended for refusal.

RECOMMENDATION

That planning permission be refused for the following reasons:

1. The application site lies outside of any defined settlement boundary in an unsustainable rural location. In relation to Policies S1 and H7 of the Herefordshire Unitary Development Plan and paragraph 55 of the National Planning Policy Framework the proposal does not accord with any of the limited exception criteria, which allow for residential development within open countryside. Furthermore the development is not considered to represent a sustainable form of development having regard to its location and the guidance contained within the National Planning Policy Framework. Therefore the proposal is contrary to policies S1 and H7 of the Herefordshire Unitary Development Plan and guidance contained within the National Planning Policy Framework, particularly in paragraphs 7, 8, 14 and 55.

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

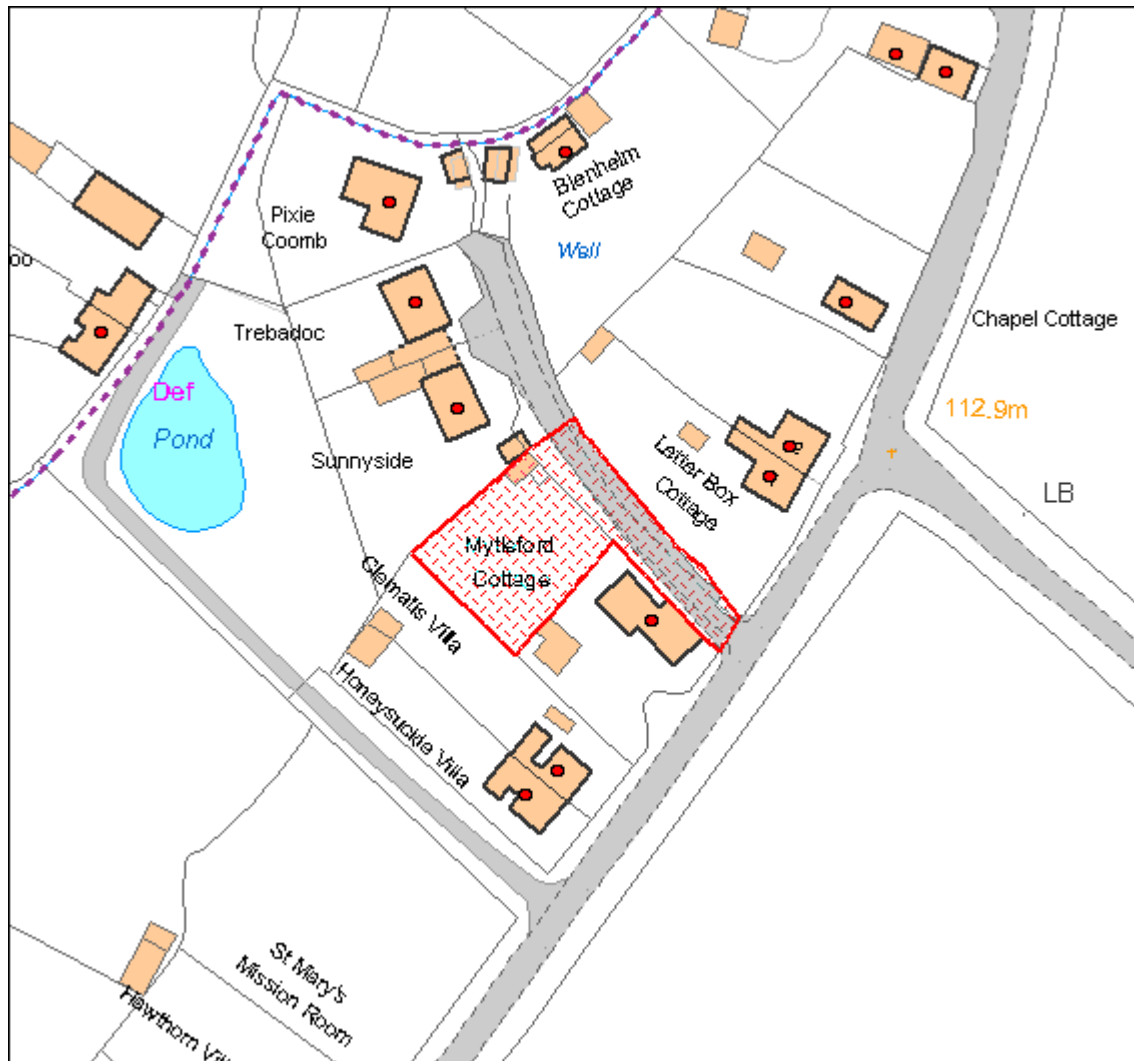
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 142450/O

SITE ADDRESS : MYRTLEFORD COTTAGE, LEDGEMOOR, WEOBLEY, HEREFORDSHIRE, HR4 8RJ

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MEETING:	PLANNING COMMITTEE
DATE:	19 NOVEMBER 2014
TITLE OF REPORT:	P141830/O - SITE FOR 18 NO. DWELLINGS, ASSOCIATED CAR PARKING, ACCESS AND LANDSCAPING. AT COURT FARM, MUCH BIRCH, HEREFORDSHIRE, HR2 8HT For: Mr Green per Mr Dean Benbow, 21 Mill Street, Kington, Herefordshire, HR5 3AL
WEBSITE LINK:	https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=141830&search=141830

Date Received: 19 June 2014

Ward: Pontrilas

Grid Ref: 350322,230432

Expiry Date: 26 September 2014

Local Member: Councillor J Norris

1. Site Description and Proposal

- 1.1 The 1.1 hectare application site comprises a packing shed, a tall steel framed building and two small outbuildings at its northern end located at Court Farm, Much Birch, a smaller settlement identified in policy H6 of the Herefordshire Unitary Development Plan (HUDP). The southern half of the site is part of an open agricultural fields. As the site covers only part of an agricultural field, there is no existing or historic boundary to the south of the site at present. There is an access road that skirts the rear of the packing shed along the sites northern boundary. This road serves Mayfield Cottage and Worcester Cottage, it then leads south-westwards across arable land.
- 1.2 The outline application proposes 18 new dwellings with access, scale, layout and landscaping to be determined at this stage. Appearance is the only matter reserved for future consideration. Access is taken off Court Farm Road (U71606) which leads southwards from the A49(T) past the Doctor's Surgery and Community Hall and parish church. The existing unadopted access road will be upgraded to adoptable standards and comprise a 6m wide carriageway with a 2m wide footpath along its western edge. The creation of the new 2m pavement necessitates the removal of the existing ad-hoc community parking. This will be re-provided along the northern edge of the development in a more formal manner with 8 spaces provided.
- 1.3 The layout shows 18 dwellings in a cul-de-sac arrangement with a green area functioning as a residential roundabout at the terminus of the proposed road. The scheme includes 12 detached dwellings and 6 semi-detached dwellings. The 6 semi-detached dwellings are located at the north of the site and have been identified as being affordable units to be secured by way of a section 106 agreement.
- 1.4 The landscaping scheme illustrates boundary treatment within this site and biodiversity improvements beyond the site boundary. Site boundaries would be defined by indigenous

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

hedging of Hawthorn, Blackthorn, Hazel, Holly, Dog Rose, Field Maple, Dogwood, Spindle and Wild Privet composition. Fruit trees would be planted in rear gardens on property boundaries to increase privacy between dwellings and increase bio-diversity. A dedicated wildlife habitat area will act as a buffer between the new development and the open countryside to the south and would include a new pond, wildflower grassland and native scrub.

1.5 The application is accompanied by the following documents:

- Extended Phase 1 Habitat Survey
- Design and Access Statement
- Section 106 Draft Heads of Terms

2. Policies

2.1 National Planning Policy Framework (NPPF)

The following sections are of particular relevance to this application:

Introduction	-	Achieving Sustainable Development
Chapter 4	-	Promoting sustainable transport
Chapter 6	-	Delivering a Wide Choice of High Quality Homes
Chapter 7	-	Requiring Good Design
Chapter 8	-	Promoting Healthy Communities
Chapter 11	-	Conserving and Enhancing the Natural Environment

2.2 Herefordshire Unitary Development Plan 2007 (HUDP)

S1	-	Sustainable Development
S2	-	Development Requirements
S3	-	Housing
S6	-	Transport
S7	-	Natural and Historic Heritage
DR1	-	Design
DR3	-	Movement
DR4	-	Environment
DR7	-	Flood Risk
H6	-	Housing in Smaller settlements
H7	-	Housing in the Countryside Outside Settlements
H13	-	Sustainable Residential Design
T8	-	Road Hierarchy
LA2	-	Landscape Character and Areas Least Resilient to Change
LA5	-	Protection of Trees, Woodlands and Hedgerows
LA6	-	Landscaping
NC1	-	Biodiversity and Development
NC6	-	Biodiversity Action Plan Priority Habitats and Species
NC7	-	Compensation for Loss of Biodiversity
CF2	-	Foul Drainage

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>

2.4 Herefordshire Local Plan Core Strategy

SS1	-	Presumption in Favour of Sustainable Development
SS2	-	Delivering New Homes

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

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

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

3. Planning History

3.1 **DCSW2007/3846/O** Residential Development (9 dwellings), pond, parking for village hall and surgery, proposed landscaping and treatment plant, demolition of pack house, removal of static caravans: Approved

4. Consultation Summary

4.1 The Council's Transportation Manager does not object:

"The proposal has been subject to a lot of discussion, the main issue for the site is connectivity and mitigating the impact of the development. The proposal is to adopt the highway from plots 18 and 11 through to the adopted highway and to provide a safe pedestrian access to the A49 which will include improvements on the A49. A106 will be required to support sustainable transport links in the vicinity of the development though the improvements above should be covered under a S278 agreement. The proposal is provide additional parking outside of the adopted area; this will need to be conditioned as to the provision and maintenance for the life of the development.

The house parking could be tweaked which will allow for more on street parking. If garages are to be used and count for parking, the internal dimensions need to be 3m x 6m. The visibility at the junction is acceptable as the speeds are low, visibility at the accesses will be protected by the service strip."

4.2 The Highways Agency does not object:

"The site is for 18 residential dwellings on the edge of an established community and replaces a fairly intensive seasonal packing facility. We do not envisage that this development will have a detrimental effect on the local trunk road network."

4.3 The Council's Conservation Manager does not object:

"The proposed scheme allows for an increase of residential units following a recent permission for residential development on the site (DS073782/O). The proposed development site is located within close proximity to the grade II listed church of St Mary

and St Thomas A Becket. The church is at the centre of a cluster of houses and buildings which comprise of modern and historic development.

The existing site, which is run down and with the traces of demolished structures, falls within this setting but its condition adds little to its setting. Beyond the site, the rural setting of the village is evident with the ground sloping away to provide views of the surrounding landscape. The church is located in a dominant position within this landscape.

The permitted scheme for the site therefore has an impact on the village in that it repairs part of the village that detracts from the setting of the listed church and that it also has an impact on the more open setting of the church. The proposed scheme seeks to add units to the existing permission but will have the same effect as the consented scheme. The pattern of the proposed development contributes to the established clustered or nucleated pattern of settlement in the village which is focussed on the church rather than being at odds with its established character and appearance. No objection is therefore made to the principle of development.

As set out in the Design & Access Statement submitted with the application, the design and detail (including materials) of the houses will be crucial in fully and successfully integrating the proposed development within the village.”

4.4 The Council’s Waste Manager does not object.

4.5 The Ramblers Society does not object but requests the developer be made aware of their legal requirement to maintain the public right of way:

“The footpath is routed along the existing track which will become the main access/egress from the proposed site. As the over lap is fairly short there will probably be little or no impact upon the footpath, however to ensure this is the case I feel the proposed 15 mph speed limit should be reduced to 10 mph as currently imposed by Court Farm Chickens Ltd. I ask you to ensure that the developer is aware that there is a legal requirement to maintain and keep clear a Public Right of Way at all times.”

4.6 The Council’s Housing team support the application:

“The application states that they are to be constructed to DQS, Lifetime Homes and the Code for Sustainable Homes all of the required standards by the Housing Team. The bed sizes and tenure split are also supported; further discussion needs to be had with the developer as to which intermediate tenure he would be looking to develop.”

5. Representations

5.1 Much Birch Parish Council state that:

“The Parish Council supports the application. They can see no grounds under which it can be refused but would ask for careful consideration of the access road from the Road A49 to the start of the development. Heads of Terms (106 monies) to be used for sustainable transport with serious consideration given to the access road and attendant issues, although it is acknowledged that the width of the road cannot be changed.”

5.2 Two letters of representation were received from Ms D Hadley and Ms M Wood who comment that:

- The access road is very narrow and used by a variety of people, namely local residents, visitors to the surgery, mini buses for the fruit pickers on the farm and big lorries servicing the chicken farm. There is barely room for two cars to pass on the lane and lorries find it a tight fit.
- The wall of the churchyard has been damaged recently by a large lorry and since repaired.
- The problem is compounded by cars parking on the pavement outside the surgery in spite of being urged not to do so, as parking is available elsewhere. This creates a further problem for people trying to walk on the pavement, especially for wheel chairs and mothers with pushchairs.
- Living within sound of the A49, there are often hoots and squealing of breaks as cars enter and exit the lane from the A49. Although it is a good while since there has been an accident the area is potentially very dangerous, even more so when there is an Autumn flu clinic at the surgery.
- There are concerns that there is no shop to be provided within the scheme with locals having to use facilities at Peterstow or Hereford.

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

Policy Context

6.1 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."

6.2 In this instance the Development Plan for the area is the Herefordshire Unitary Development Plan 2007(UDP). The UDPs plan period has expired, but certain policies have been 'saved' until such a time that the Council's Core Strategy is adopted. UDP Policy H6 is one such saved policy and is relevant to the principle of providing housing in this location, the application site being immediately adjacent to the small settlement of Much Birch. UDP Policy H6 resists residential development comprising anything other than one dwelling. However, the two-stage process set out at S38 (6) also necessitates an assessment of material considerations.

6.3 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 as indicated in paragraph 2 of the NPPF. The NPPF's material contribution to the determination process is two-fold:

- Paragraph 215 outlines the NPPF's role as a barometer of the weight which can be apportioned to policies of the local plan; and
- The NPPF sets independent requirements of development with paragraphs functioning as stand-alone policies.

6.4 For the purposes of determining the weight which can be apportioned to policies of the development plan, paragraph 215 of the NPPF requires the degree of consistency between the two documents to be appraised. The closer the policies in the development plan to the policies in the Framework, the greater the weight that may be given. With specific regard to housing supply policies, paragraphs 47 & 49 are relevant. Paragraph 47 requires that Local Planning

Authorities have an identified five year supply of housing plus a 5% buffer. Where there has been a record of persistent under delivery of housing, local planning authorities should increase this buffer to 20%. Paragraph 49 requires that the 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.

6.5 Herefordshire Council cannot currently demonstrate a five year housing supply neither have they identified a sufficient quantity of land on a persistent basis – a position recently upheld at appeal, triggering the requirement for a 20% buffer. The Council's housing policies are therefore contrary to the provisions of paragraphs 47 & 49 of the NPPF. On this basis and in accordance with paragraphs 215 and 49 of the NPPF, HUDP Policy H6 cannot be relied upon to determine the geographical location of housing in and around Much Birch.

6.6 Paragraph 14 of the NPPF sets out the process for decision takers and requires that:

- Proposals that accord with the development plan should be approved without delay; or
- Where the development plan is silent, absent or relevant policies are out of date, permission is granted unless adverse impacts would significantly and demonstrably outweigh the benefits in the context of the NPPF as a whole.

6.7 Having established that the Council's housing policies, including HUDP Policy H6, are out-of-date, the second limb of the above is the applicable test of acceptability for residential development in this location and throughout the county. It must therefore be considered if the development is representative of sustainable development having regard to the NPPF as a whole. If this is found to be true then the positive presumption shall be engaged and planning permission granted.

Principle of development

6.8 Within the forward to the NPPF the purpose of planning is described as being to help achieve sustainable development. The Government's definition of Sustainable Development is considered to be the NPPF in its entirety though paragraph 17 lays out a concise set of 'core planning principles'. Amongst these principles are that decision taking should:

- take account of the different roles and character of different areas, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it; and
- actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus development in locations which are or can be made sustainable.

6.9 Locally, HUDP Policy S1 requires, amongst other things, that development proposals should respect patterns of local distinctiveness and landscape character in both town and country. Policy DR1 similarly requires that development should promote or reinforce the distinctive character of the locality. These policies are generally consistent with the advice on design and distinctiveness set out in the NPPF (chapter 6) and so continue to attract considerable weight.

6.10 Essentially, in determining the acceptability of the principle of development in this location there are two main criteria which development shall meet: The location of the site with regards facilities and services and the ability for residential development to sit harmoniously with the sites built and natural context.

6.11 The application site is located immediately adjacent to the village of Much Birch which provides the following facilities and services with distances to the application site in brackets (distances are measured as one would walk rather than as the crow flies and are approximate):

- Church (65 metres);
- Community Centre (100 metres);
- Doctors Surgery (100 metres);
- Primary school (530 metres);
- The Pilgrim Hotel (630 metres);
- The Axe & Cleaver Inn (1200 metres);
- Car Garage (1300 metres); and
- A number of bus stops, the closest of which is 140 metres from.

- 6.12 These amenities are considered to be within walking distance of the application site, with the possible exception of the Car Garage which breaches the 1200 metres maximum walking distance suggested by 'Guidelines For Providing For Journeys On Foot' which is referenced in paragraph 5.1.1 of Manual for Streets 2. The more extensive amenities found within the city of Hereford are accessible by a regular bus service running frequently between Much Birch and Hereford.
- 6.13 In terms of the route's nature, the first 150 metres from the application site to the above facilities is along Court Farm Road the final 100 metres of which benefit from a pavement. This application includes the provision of pavement between the application site and the commencement of the pavement outside of the doctor's surgery which would be delivered by way of a section 278 agreement. Resultantly a continuous footpath would be provided from the application site to the community centre, doctor's surgery, church and bus stop. In order to reach the other facilities within the village, one must cross the A49 to access a footpath which then spans the entire length of the village of Much Birch. There is no designated crossing point on the A49 within Much Birch and the speed limit of the road at this point in 40mph. The entire route is unlit.
- 6.14 The large part of one's journey between the application site and the aforementioned amenities would benefit from a designated pedestrian footpath which whilst unlit, is capable of providing safe and convenient movement between the application site and local facilities. However, in crossing the A49 one would have to negotiate a large volume and disparate type of vehicular traffic. The A49 is thus a plausible barrier to safe and convenient pedestrian flow throughout the village. Much Birch benefits from a fairly even split of facilities either side of the A49 and thus in dissecting the village on a north-south axis, the A49 is an inherent and historic consideration in providing residential growth within the village of Much Birch.
- 6.15 In appraising the suitability of the application site with regard to its proximity to facilities and services it is considered that significant weight be attached to the short and safe pedestrian route to the church, community centre, doctor's surgery and bus stop. Furthermore, although the A49 represents a substantial restraint to one's ability to safely and conveniently access other amenities within the village, crossing the A49 to the footpath on its eastern flank is possible by virtue of the good visibility in each direction along the A49 – 590 metres in a south-easterly direction and 270 metres in a north-westerly direction measured from the pavement edge to the centre line of the road. The site is considered to offer reasonable access to a good level of facilities and services within the village of Much Birch and the more extensive facilities at Hereford by methods other than the private motor vehicle. The provision of a pedestrian crossing on the A49 is not considered integral to the application's acceptability in terms of the site's location nor would the works required to provide a crossing be of a scale commensurate to proposed development. Such a provision by way of a 278 agreement would not therefore be reasonable.
- 6.16 Turning to the suitability of the residential development of the site for this setting, it is pertinent to note that the site abuts the inferred boundary of Much Birch. The area of the village within which the site is located is primarily residential though also includes a church, community centre and doctor's surgery. It is officer opinion that the residential development of the site is compatible with its context from a land use perspective.

Highways

- 6.17 The application site is located at the extent of an unclassified road known as Court Farm Road which is currently utilised by residential and agricultural traffic. The road provides access to the doctors' surgery, community centre, church, fruit farm, poultry units and a number of dwellings. The road is relatively narrow being approximately 4 metres wide at its most narrow. It is single track save for the most northerly 25 metres which provides two marked lanes for traffic turning onto and off the A49. Visibility of 45 metres in each direction is provided at the access to the proposed development and provides adequate splays for the nature of the road and vehicle speeds thereon. The intensification of vehicle numbers using both the local highway network and accessing the A49 is considered acceptable having consulted both the Council's Transportation Manager and the Highways Agency. The impact on highways safety is not considered severe as per the test of acceptability laid out in paragraph 32 of the NPPF.
- 6.18 The proposal includes the provision of a length of footpath alongside the curtilage of the dwelling known as 'Avalon'. This will improve the connectivity of the site to the surrounding village and facilities therein. This is considered integral to the acceptability of the application and as such its provision will be required via Section 278 agreement rather than Section 106.
- 6.19 Court Farm Road is subjected to impromptu parking mainly in relation to the use of the doctor's surgery and community centre. Whilst it is difficult to reconcile the loss of this space given its informal nature, its loss has been mitigated for as best possible through the provision of 8 no. spaces for community use. The lifetime maintenance of these spaces will be a condition of any permission given.
- 6.20 Internally, the site layout is acceptable. There is comment from the Council's Transportation Manager that the parking arrangement could be amended to increase on-road parking. This is a matter which can be dealt with via condition. Parking within each garage shall be no less than 6m x 3 metres per parking space and will be a necessary requirement of any reserved matters application.

Layout, Scale and Appearance

- 6.21 Chapter 7 of the NPPF in its entirety is applicable to the design of development. Chief among its requirements is the need for good design. Paragraph 56 states that "Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people." This is expanded on later in the chapter with paragraph 63 requiring outstanding design to be given significant weight in the determination process and paragraph 64 requiring development of poor design which fails to make the most of opportunities presented to be refused.
- 6.22 Chapter 7's other provisions underpin those within the UDPs design policies. Paragraphs 58 – 60 require that development reinforces local distinctiveness and history adding to the quality of the area, creating a strong sense of place and that development is visually attractive. Particular attention should be given to the aforementioned in the context of site access, scale, massing, detailed design, layout, density, height and landscaping. Paragraph 61 highlights the importance of connections between people and places and the integration of new development into the natural, built and historic environment as inherent aspects of good design.
- 6.23 HUDP Policy H13, supported by DR1, requires consideration of the design of residential development and its potential to impact on the locality in terms of neighbouring residential amenity, landscape character, the environment and highways safety. HUDP policies H13, DR1 and S1 also require development to include energy conservation and renewable energy generation techniques. These policies are generally consistent with the advice on design and distinctiveness set out in the NPPF (chapter 7) and so continue to attract considerable weight.

- 6.24 Historically, Much Birch has developed in an ad hoc manner, as with many villages within the County. This is particularly evident along Court Farm Road which has a fairly well maintained semi-rural character with stone buildings and a moderate amount of roadside greenery. This is however eroded somewhat by the more modern, suburban style brick development of the doctor's surgery and community centre and along the tributary cul-de-sacs.
- 6.25 The historic form of development in this locality is of full height two-storey dwellings, of a gabled form and stone construction. More recent development has seen the introduction of one and one and a half storey dwellings which tend to be of a red-brick construction. Whilst varying in the number of storeys provided, buildings do tend to be of the minimal height necessary to provide the accommodation within with low eaves heights, thus upholding a traditional feature of semi-rural residential buildings. Where larger footprints are necessary these are provided through projections of a subservient scale perpendicular to the main ridgeline rather than by increasing the depth of the main element of the building. The built context of the area is therefore of a disparate character, though the historic features remain prevalent by virtue of their more prominent location relative to Court Farm Road and the wider village.
- 6.26 The application site is visually separate from the land which it immediately adjoins to the north by virtue of the dense and tall hedges which make up its northern boundary. Vegetation is a feature of Court Farm Road, with existing cul-de-sacs to the north of Court Farm Road well screened from public view. Therefore although the development would not be fully visible from all parts of Court Farm Road it would still have a significant visual relationship with it. As such, it is imperative that any development of the application site does not represent too stark a change in character from Court Farm Road so as not to appear as an entity separate to that provided along Court Farm Road and subsequently within the rest of the village.
- 6.27 This application seeks approval of all matters save for appearance. All matters have connotations for a scheme's design within the context of the above mentioned policies. Furthermore, the matters for which approval is sought, particularly layout and scale will create a framework within which the 'appearance' of the development must be provided when approval of that matter is required.
- 6.28 Given the geometry of the site it is hard to envisage a response other than the elongated cul-de-sac as proposed. There is however precedent for such development style locally with a number of cul-de-sacs spurring from Court Farm Road. Building orientation is determined by the access road and successfully reinforces the shape of the site, relating well to existing site boundaries. The inclusion of the landscaped loop at the southern end of the site provides turning whilst also designing out the potential to develop further into the open countryside. The density of development at circa 17 dwellings per hectare is low, but in this instance is considered necessary to uphold the semi-rural character of local development. Footprints are 'T' shaped with gabled roofs which will naturally provide a form of building whose perpendicular protrusions will break its potential massing. Building spacing is acceptable providing strategic gaps which will help to increase the visual depth of development thus further reduce its massing. The retention of hedgerow, to the north of the site in conjunction with the site's location away from the predominant public vantage point of the A49 will ensure that the more historic elements of Court Farm Road, particularly the parish church, retain their prominence within the streetscape. As a result of the above, it is officer opinion that the proposed development would provide a 'social space' of an appearance and functioning which would sit comfortably within its semi-rural milieu with potential to incorporate characterful elements of the local vernacular into the detailed design of the scheme.

Landscape

- 6.29 NPPF Paragraph 109 states that valued landscapes should be protected and enhanced. HUDP Policies LA2 and LA3 are broadly consistent with chapters 11 and 12 of the NPPF and require that the landscape character and setting of a settlement be acknowledged, respected and improved where ever possible.
- 6.30 The application will be visible from the south given its projection beyond the existing extent of development. However, given the Council's lack of housing land and a historic approval of development on the site allied with the reparation of what is at present a dilapidated site and the residential milieu within which the site would be viewed there is no landscape objection to the principle of development. Again, the detailed design of the proposed dwellings will have connotations for the landscape impact of the scheme through the layout and scale of development as well as indicative elevations show that there is potential for development to sit comfortably within its context.
- 6.31 At present, this area of Much Birch has a graduated boundary by virtue of staggered agricultural development which does not benefit from a defined boundary. This proposal, through the provision of housing and a strong southern boundary would provide a definitive edge to the village. Furthermore, a landscaping plan as described in the below 'Ecology' section of this report will help to integrate the site into the surrounding open countryside whilst also serving to improve the visual appearance of what is currently degraded agricultural land.

Ecology

- 6.32 The application is accompanied by an Phase One Ecological Survey which concludes that impact on protected species and their habitat is unlikely and whilst recommending care be taken during the development, does not raise objections to the principle of the development of the site. Appended to the survey is a number of biodiversity improvement works which include the following:
- A new native boundary hedgerow along each boundary consisting of native species;
 - An area of the main field to be sown with general wildflower grassland mix and to be managed as a hay meadow;
 - Field corners to be planted with native scrub – approximately 25 square metres worth of scrub planting in each corner; and
 - A new underlined pond between 100 and 200 square metres in surface area.
- 6.33 The NPPF and HUDP Policies NC1, NC6 and NC7 require the planning system should contribute to and enhance the natural and local environment by minimising impacts on biodiversity and providing net gains in biodiversity wherever possible with the NPPF specifically requiring "opportunities to incorporate biodiversity in and around developments to be encouraged". It is officer opinion that the content of this report has accurately and correctly appraised the situation and subject to the appending of conditions to any permission given protected species and their habitat would be successfully protected. Furthermore the developer has actively sought to provide improvements to local biodiversity of a scale and quality which is considered commensurate to the size of development.

Setting of Listed Building

- 6.34 The application site is located 40 metres to the south-west of the Grade II listed Church of St Mary's and Thomas a Becket and thus the proposed development has potential to impact on its setting. The church is, however, located at the centre of a cluster of houses and buildings which comprise of modern and historic development. The application site in its current state offers little to the setting of the listed building. Beyond the site, the rural setting of the village is evident with

the ground sloping away to provide views of the surrounding landscape. The church is located in a dominant position within this landscape.

- 6.35 The proposed scheme will repair an element of the Church's setting which at present is in a poor condition but will also erode the open setting of the church when viewed from the south. However, the further provision of housing is not considered to have a greater impact than the permission which was previously granted for 9 dwellings. The pattern of the proposed development contributes to the established clustered pattern of settlement in the village which is focussed on the church rather than being at odds with its established character and appearance. The Council's Conservation Officer therefore offers no objection to the principle of development.

Residential amenity

- 6.36 Loss of amenity arising from prejudicial overlooking and daylight reduction is a material consideration. In this case, officers are satisfied that development of the site in the manner detailed would not give rise to undue concerns for the either daylight or privacy of dwellings within the site. Existing dwellings to the periphery of the site are set within relatively spacious plots which in conjunction with the proposed layout would preclude the undue erosion of exiting privacy or amenity levels. The aforementioned is clearly caveated by the necessity to secure acceptable dwellings designs at the reserved matters stage particularly with regards fenestration.

Planning Obligations

- 6.37 The S106 draft Heads of Terms are appended to the report and as summarised include substantial contributions towards Sustainable Transport Infrastructure, Education, Public Open Space, Waste & Recycling and Libraries whilst also providing a mechanism to ensure the provision of 6 affordable units retained in perpetuity. The total amount will depend on the exact number of bedrooms per unit, though based on projected numbers would amount to £119,424 plus a 2% fee for the monitoring and enforcing of the agreement and legal costs incurred by the Council in preparing the agreement.
- 6.38 Six affordable units are to be provided (4 no. 2-beds, 2 no. 1-beds). In terms of tenure, 4 no. units will be made available for social rent whilst 2 no. would be for intermediate tenure occupation. All units shall be provided prior to the occupation of 50% of the open market dwellings. The provision itself and manner of delivery is considered acceptable by the Council's Housing Team.

Conclusion

- 6.39 Within the framework of determination as set out in paragraph 7 of the NPPF the following conclusion is offered:

Economic: The site would make a moderate contribution to the local economy through the short term employment of the construction trade. It would also likely contribute to the vitality and viability of the village of Much Birch through the increased use of the facilities therein and to a lesser extent, amenities elsewhere in Herefordshire.

Social: The scheme would provide 18 no. dwellings making a not insignificant contribution to the Council's current lack of housing land. 6 no. affordable units of a varied size and tenure would be provided where a substantiated need exists for such development. The site is located as to afford future occupants the opportunity to contribute to the established community of Much Birch utilising the social and community facilities therein.

Environment: The application site's proximity to services and facilities would in all likelihood result in future occupiers of the site undertaking a significant number of everyday activities without use of the private motor vehicle, resulting in reduced carbon emissions. In landscape terms, the site relates well to the surrounding pattern of development thereby being an appropriate land use. The site would result in the reuse of a brownfield site, though it would also interject into the open countryside by virtue of the development of a part of a field which is at present undeveloped. A landscaping scheme would however filter views of the development from the southerly aspect whilst providing a definitive boundary between the village and the open countryside beyond. The landscaping scheme would also provide significant ecological benefits through the provision of biodiversity improvement.

- 6.39 In conclusion it is considered that the proposal is representative of sustainable development and, in the absence of demonstrable harm, that planning permission should be granted subject to the appending of appropriate conditions as laid out below and the completion of a Section 106 agreement as per the attached draft heads of terms.

RECOMMENDATION

Subject to the completion of a Section 106 Town & Country Planning Act 1990 obligation agreement in accordance with the draft Heads of Terms appended to 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. **A05 - Plans and particulars of reserved matters**
5. **B01 - Development in accordance with the approved plans**
6. **F08 – No conversion of garage to habitable accommodation**
7. **F14 – Removal of permitted development rights**
8. **G11 – Landscaping scheme - implementation**
9. **H03 - Visibility splays**
10. **H06 - Vehicular access construction**
11. **H11 - Parking - estate development (more than one house)**
12. **H17 - Junction improvement/off site works**
13. **H18 - On site roads - submission of details**
14. **H19 - On site roads - phasing**
15. **H20 - Road completion in 2 years**
16. **H21 - Wheel washing**

- 17. H29 - Secure covered cycle parking provision
- 18. I16 – Restriction of hours during construction
- 19. I18 – Scheme of foul drainage disposal
- 20. K4 – Nature Conservation – Implementation
- 21. C01 - Samples of external materials

INFORMATIVES:

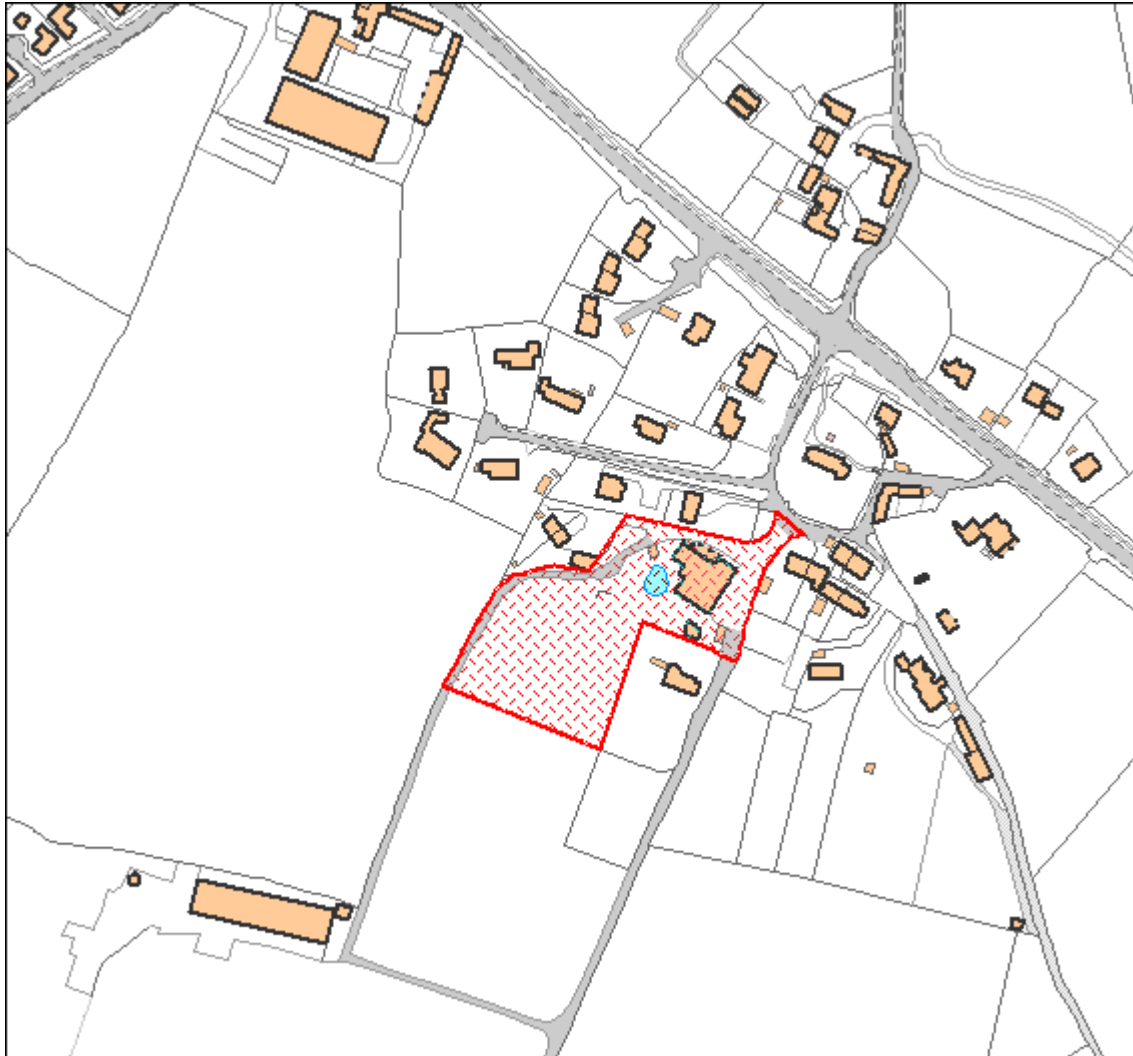
- 1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
- 2. N11C – General
- 3. HN05 – Works within the highway (Compliance with the Highways Act 1980 and the Traffic Management Act 2004)
- 4. HN07 – Section 278 Agreement
- 5. HN08 – Section 38 Agreement & Drainage details

Decision:

Notes:

Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 141830/O

SITE ADDRESS : COURT FARM, MUCH BIRCH, HEREFORDSHIRE, HR2 8HT

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

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 1st April 2008. All contributions in respect of the residential development are assessed against general market units only.

Pre-application reference: 131960 (the pre-application proposal has evolved following discussions with the Council therefore this reference refers to 4 dwellings whereas the proposal is now for 18 dwellings)

Demolition of existing farmhouse and erection of 18 dwellings comprising 12 open market and 6 (2 × 1 bed, 2 × 2 bed social rented and 2 × 2 bed intermediate) affordable on land at Court Farm, Much Birch, Herefordshire.

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

The contributions will provide for enhanced educational infrastructure at South Hereford Early Years, Much Birch Primary School, St Mary's Roman Catholic School, South Hereford Youth and the Special Education Needs Schools. The sum shall be paid on or before first occupation of the 1st 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:

£1,966.00	(index linked) for a 2 bedroom open market dwelling
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- £2,949.00 (index linked) for a 3 bedroom open market dwelling
- £3,932.00 (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 1st 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:

- £193.00(index linked) for a 1 bedroom open market dwelling
- £235.00(index linked) for a 2 bedroom open market dwelling
- £317.00 (index linked) for a 3 bedroom open market dwelling
- £386.00(index linked) for a 4 bedroom open market dwelling

The contributions will provide for an off-site contribution towards improving the Public Open Space and recreation opportunities including quality/accessibility of the more natural and semi natural green space and recreational rights of way. Priorities for spend will be identified through local consultation e.g. the local parish council and existing management plans e.g. the Council's Rights of Way Improvement Plan. The sum shall be paid on or before occupation of the 1st 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 City. The sum shall be paid on or before the occupation of the 1st open market dwelling, and may be pooled with other contributions if appropriate.

5. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of £1,440.00 (index linked). The contribution will provide for waste reduction and recycling in Hereford. The sum shall be paid on or before occupation of the 1st 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) and Attenuation Basins 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.
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 6 Affordable Housing units, at least 4 shall be made available for social rent with the remaining 2 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 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 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:-

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 paragraph 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 who has:-

11.1 a local connection with the parish of Much Birch;

11.2 in the event there being no person having a local connection to the parish of Much Birch a person with a local connection to the adjoining parishes.

11.3 in the event there being no person with a local connection to any of the above parish or wards 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 and 10.2 above

12. For the purposes of sub-paragraph 11.1 and 11.2 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

.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