

# AGENDA

## Planning Committee

Date: **Wednesday 21 January 2015**

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Time: **2.00 pm (or on the conclusion of the meeting of the Planning Committee to be held in the morning, if later.)**

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

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

For any further information please contact:

**Tim Brown, Democratic Services Officer**

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

# Agenda for the Meeting of the Planning Committee

## Membership

**Chairman**

**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
<p><b>1. APOLOGIES FOR ABSENCE</b></p> <p>To receive apologies for absence.</p>	
<p><b>2. NAMED SUBSTITUTES (IF ANY)</b></p> <p>To receive details of any Member nominated to attend the meeting in place of a Member of the Committee.</p>	
<p><b>3. DECLARATIONS OF INTEREST</b></p> <p>To receive any declarations of interest by Members in respect of items on the Agenda.</p>	
<p><b>4. P142215LAND OFF ROSEMARY LANE, LEINTWARDINE, HEREFORDSHIRE</b></p> <p>Residential development of up to 45 dwellings (use class C3) means of access and associated works (with all other matters relating to appearance, landscaping, layout and scale reserved.</p>	7 - 40
<p><b>5. P142356/F FODDER STORE ADJ THE OLDE RECTORY, BOAT LANE, WHITBOURNE, WORCESTER, WR6 5RS</b></p> <p>Proposed removal of condition 4 of planning permission DCNC2004/2013/F (conversion of cottage annexe to provide one bedroom holiday cottage) to allow 'Fodder Store' to be used as a dwelling.</p>	41 - 48
<p><b>6. DATE OF NEXT MEETING</b></p> <p>Date of next site inspection – 10 February 2015</p> <p>Date of next meeting – 11 February 2015</p>	



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- Inspect minutes of the Council and all Committees and Sub-Committees and written statements of decisions taken by the Cabinet or individual Cabinet Members for up to six years following a meeting.
- Inspect background papers used in the preparation of public reports for a period of up to four years from the date of the meeting. (A list of the background papers to a report is given at the end of each report). A background paper is a document on which the officer has relied in writing the report and which otherwise is not available to the public.
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<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>21 JANUARY 2015</b>
<b>TITLE OF REPORT:</b>	<p><b>P142215/O - RESIDENTIAL DEVELOPMENT OF UP TO 45 DWELLINGS (USE CLASS C3) MEANS OF ACCESS AND ASSOCIATED WORKS (WITH ALL OTHER MATTERS RELATING TO APPEARANCE, LANDSCAPING, LAYOUT AND SCALE RESERVED AT LAND OFF ROSEMARY LANE, LEINTWARDINE, HEREFORDSHIRE,</b></p> <p><b>For: L W D Developments LLP per Framptons, Oriel House, 42 North Bar, Banbury, Oxfordshire, OX16 0TH</b></p>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=142215&amp;search=142215">https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=142215&amp;search=142215</a>
<b>Reason Application Submitted to Committee – Contrary to Policy</b>	

**Date Received: 21 July 2014**

**Ward: Mortimer**

**Grid Ref: 340722,273989**

**Expiry Date: 20 October 2014**

Local Member: Councillor RJ Phillips (Interim Ward Member)

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

- 1.1 Outline planning permission with all matters other than 'access' reserved for future consideration is sought for the erection of up to 45 dwellings, on land off Rosemary Lane. Leintwardine. The site consists of two fields that slope towards the east, laid down to grass which are adjoined on their western side by a residential area known as Rosemary and Middle Wardens. To the north and east of the site is open countryside. The C1014 highway abuts the southern side from which access into the site is proposed. On the opposite side of this highway is a small industrial estate and the village sewage works.
- 1.2 The site which covers an area of approx. 2.6 hectares is located within easy reach of the central part of the village on land adjoining the recognised development boundary for Leintwardine. The main built up environment of the village which is considered an historic village of noted 'Roman interest' is mostly linear in form, straggling the A4113 road which passes through the heart of the village, which extends to the west of the site, the site does not adjoin the Conservation Area or any listed buildings.
- 1.3 Two public rights of way pass through the site.

## The Proposal

- 1.4 The application proposes a development comprising of a mixture of 2, 3 and 4 bedroomed two storey and (4) single storey dwellings. The breakdown of units is as follows:
- 4 bedroomed detached – 16, 3 bedroomed, – 21, 2 bedroomed 8. The housing density is 29 dwellings per hectare, which is considered a low density, and this is considered to be reflective of the local built character.
- 1.5 Vehicular access is proposed through the construction of a single point of access direct from the C1014 road. The estate road heads into the site with properties arranged on either side running in a northerly direction with spur roads leading off it. There is also a pedestrian access point located to the north west of the site which utilises the public right of way will leads into the central part of the village.
- 1.6 Surface water drainage is taken from the site and conveyed to a SUDs pond on land to the south east of the site laid out as an ‘ecological feature’ which will act as a recreational space and buffer between development on site and the adjoining farmland. Foul water is to be connected to the mains sewer.
- 1.7 The application site was subject to assessment under the Strategic Housing Land Availability Assessment and categorised as being achievable for housing development and having low/minor constraints. The implications of the Council’s lack of housing land supply (HLS) are discussed below.
- 1.8 The application is accompanied by a design and access statement, planning statement, statement of community involvement, ecological appraisal, archaeology report, heritage assessment, landscape and visual impact assessment/report and landscaping scheme, transport statement, utilities statement, flood risk and drainage assessment, affordable housing delivery statement, and a draft heads of terms to form the basis for a Section 106 Agreement. (Copy attached to this report), The Council has maintained a dialogue with the developer and their planning consultants. This has led to several revisions to the layout and significant modifications to the housing density and layout design. During the application processing period two amended site layout plans were received as well as detail in relationship to public highway and transportation issues and drainage.
- 1.9 The development has been subject to EIA screening in accordance with Environmental Impact Assessment Regulations 2011 (EIA), and it has been established that development on this site does not need to be subject to an Environmental Impact Assessment Statement in accordance with EIA Regulations.

## **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
Section 12	-	Conserving and enhancing the historic environment.



## 2.2 Herefordshire Unitary Development Plan (UDP):

S1	-	Sustainable Development
S2	-	Development Requirements
S3	-	Housing
S7	-	Natural and Historic Heritage
DR1	-	Design
DR2	-	Land Use and Activity
DR3	-	Movement
DR4	-	Environment
DR5	-	Planning Obligations
DR7	-	Flood Risk
H4	-	Main Villages: Settlement Boundaries
H7	-	Housing in the Countryside Outside Settlements
H10	-	Rural Exception Housing
H13	-	Sustainable Residential Design
H15	-	Density
H19	-	Open Space Requirements
HBA4	-	Setting of Listed Buildings
HBA6	-	New Development in Conservation Areas
ARCH1	-	Archaeology Assessments and Field Evaluations
ARCH3	-	Scheduled Ancient Monuments
T8	-	Road Hierarchy
LA2	-	Landscape Character and Areas Least Resilient to Change
LA3	-	Setting of Settlements
LA5	-	Protection of Trees, Woodlands and Hedgerows
LA6	-	Landscaping Schemes
NC1	-	Biodiversity and Development
NC6	-	Biodiversity Action Plan Priority Habitats and Species
NC7	-	Compensation for Loss of Biodiversity
NC8	-	Habitat Creation, Restoration and Enhancement
NC9	-	Management of Features of the Landscape Important for Fauna and Flora
CF2	-	Foul Drainage

## 2.3 Herefordshire Local Plan – Draft Core Strategy

SS1	-	Presumption in Favour of Sustainable Development
SS2	-	Delivering New Homes
SS3	-	Releasing Land for Residential Development
SS4	-	Movement and Transportation
SS6	-	Environmental Quality and Local Distinctiveness
SS7	-	Addressing Climate Change
RA1	-	Rural Housing Strategy
RA2	-	Herefordshire's Villages
H1	-	Affordable Housing – Thresholds and Targets
H3	-	Ensuring an Appropriate Range and Mix of Housing
OS1	-	Requirement for Open Space, Sports and Recreation Facilities
OS2	-	Meeting Open Space, Sports and Recreation Needs
MT1	-	Traffic Management, Highway Safety and Promoting Active Travel
LD1	-	Landscape and Townscape
LD2	-	Biodiversity and Geo-Diversity

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

LD4	-	Historic Environment and Heritage Assets
SD1	-	Sustainable Design and Energy Efficiency
SD3	-	Sustainable Water Management and Water Resources
ID1	-	Infrastructure Delivery

## 2.4 Neighbourhood Planning

Leintwardine Parish Council have designated a Neighbourhood Area under the Neighbourhood Planning (General) Regulations 2012. The area was designated on 13<sup>th</sup> Oct 2014. The Parish Council will prepare a Neighbourhood Development Plan for the area. There is no timescale for proposing/agreeing the content of the plan at this stage, but the plan must be in general conformity with the strategic content of the emerging Core Strategy. No work has commenced on the draft plan therefore no weight can be attached in the decision making process.

## 2.5 Supplementary Planning Guidance:

- Planning Obligations Document
- Leintwardine Village Plan.

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

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

## 3. Planning History

3.1 None identified.

## 4. Consultation Summary

### Statutory Consultees

4.1 Severn Trent Water raises no objections subject to a condition with regards to drainage plans for the disposal of surface and foul water being attached to any approval notice issued.

4.2 Welsh Water raises no objections.

4.3 English Heritage raises no objections their response recommending that the application should be determined in accordance with national and local policy guidance, for the historic environment and informed by a professional evaluation/impact assessment of the proposed development area. If the area is confirmed as being of limited archaeological interest EH will not object although design matters would be significant in achieving an appropriate quality and sensitivity of development.

4.4 Natural England raises no objections. Their response indicates:

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

We welcome the proposed use of Sustainable Drainage Systems (SuDS) and recommend that due to the proximity to the River Teme SSSI, these SuDS should be designed to ensure that in

addition to maintaining the greenfield runoff rates, only clean water leaves the site. Detailed designs should be agreed with the local planning authority prior to the commencement of works on site. These conditions are required to ensure that the development, as submitted, will not impact upon the features of special interest for which the River Teme SSSI is notified.

If your Authority is minded to grant consent for this application without the conditions recommended above, we refer you to Section 281 (6) of the Wildlife and Countryside Act 1981 (as amended), specifically the duty placed upon your authority,

- 4.5 Sport England has responded indicating it wishes to make no comments on this application.
- 4.6 The Environment Agency raises no objections indicating that the site appears to be a Flood Zone one, they would defer to our Land Drainage team for comments. The response indicating that there does not appear to be any other constraints within their remit so they don't think they would have any substantive comments to offer.

#### Internal Council Advice

- 4.7 The Transportation Manager raises no objections to the application his response indicating:

'The proposal is acceptable. Rosemary Lane is 5m wide, which is considered adequate for cars to pass, although HGVs and possibly buses and vans may have to wait while traffic clears. The volume of wider vehicles is very low, so problems are unlikely to occur. The increase in traffic is well within the capacity of the local highway network to absorb without problems.

The reduction in dwelling numbers will result in less traffic than indicated in the Transport Statement. The original proposal was acceptable, and so is the amended proposal.

It is unclear from the drawings if the required parking spaces are provided, but this is something to be addressed at Reserved Matters stage. Note that since the publication of the Manual for Streets, the previous maximum parking standards are now minimums. The internal dimensions of garages are to be 6m by 3m minimum.

Total in accordance with Planning Obligations as indicated on attached draft Heads of Terms equals £175702.00

- 4.8 Conservation Manager (Landscapes) raises no objections the response states:

*'It is considered that the reduction in number of dwellings, provides a more appropriate density for this edge of settlement location, facilitating a design layout which better relates to the existing developments of both Rosemary and Middle Wardens. The objection is therefore withdrawn.'*

*'It is now recommended that detailed landscaping plans be submitted as part of a condition (G10) in addition to a landscape management plan (G14) in order to establish the successful integration of the POS (G17) at the northern edge of the site. As well as appropriate boundary treatments which address both the relationship between the existing built form as well as the transition between the proposal and the open countryside.'*

- 4.9 Conservation Manager (Ecology) raises no objections recommending attachment of a condition with regards to a habitat enhancement scheme in relationship to the mitigation measures and enhancement opportunities as highlighted in the ecological report submitted in support of the application being attached to any approval notice issued. The response indicates that it is unlikely that great crested newts or bats will be affected adversely by the development, the removal of the central hedgerow separating the two fields is not expected to impact upon any species or habitat. It is clear that the installation of retention ponds for the SuD system will enhance the site for potential amphibian habitat and with the use of low lighting across the area, bat foraging along boundary hedgerows should not be affected. The response also indicates

that the development is not likely to have a significant effect on the conservation status and qualifying features of the River Clun or River Teme.

4.10 Conservation Manager (Historic Buildings & Conservation) raises no objections indicating that the proposed site is situated to the east of the Leintwardine Conservation Area and there are no listed buildings within close proximity to the development site. A heritage assessment has been submitted as part of the application which is thorough and highlights the main issue – that the proposed development would further dislocate the conservation area from its more agricultural setting. However, I agree with the conclusion of the report that this is already evident to a degree by more recent development to the west of the site. No in principle objection is therefore raised to the proposed outline scheme as the impacts on the historic environment are minor.

4.11 The Drainage Manager has responded to the application with no objections commenting:

Review of the EA Flood Map for Planning (Figure 1) Indicates that the majority of the site is located within the low risk Flood Zone 1 where the annual probability of fluvial flooding is less than 0.1% (1 In 1000). Land immediately to the south and east of the site is indicated to be within the high risk Flood Zone 3 where the annual probability of fluvial flooding is greater than 1 % (1 In 100) and this is indicated to encroach within the south-eastern corner of the site.

In accordance with the requirements of National Planning Policy Framework (NPPF), a Flood Risk Assessment (FRA) is required to support the planning application due to the size of the development being greater than 1 ha and the potential for part of the site to be at risk of fluvial flooding. A FRA has been submitted by the Applicant as reviewed below.

The FRA identifies that part of the south-eastern corner of the site may be at fluvial flood risk. The Applicant appears to have applied a sequential approach within the site boundary and land within the south-east corner has been allocated to SUDS and soft landscaping. Whilst we approve of the approach adopted by the Applicant, we have a number of comments that we would want to be addressed as part of any subsequent reserved matters application or planning conditions prior to construction:

- The Illustrative Masterplan does not indicate the alignment of the minor watercourse within the south-eastern corner of the site. It is therefore not possible to review the proposed location of the attenuation pond in regard to the location of the watercourse. We require the Applicant to confirm the location of both of these features to ensure the works will not adversely affect the integrity or capacity of the watercourse.
- The Illustrative Masterplan does not indicate if the proposed access road to the south of the site will conflict with the alignment of the minor watercourse. Unless the proposed alignment of the road is governed by other influencing factors, we would object to the unnecessary diversion or culverting of this watercourse. We require the Applicant to confirm the location of the road and the watercourse to ensure the works will not adversely affect the integrity or capacity of the watercourse.
- The FRA does not appear to consider the potential effects of climate change on the extents of the fluvial flood risk in the south-east of the site. In the absence of modelling data, the SFRA for Herefordshire advises that the extent of the modelled flood extents could be increased by 10m to take into account climate change effects. Alternatively EA Standing Advice suggests that 300mm can be added to the predicted flood level. We require the Applicant to demonstrate that the potential effects of climate change on the extent of the mapped fluvial flood extents has been assessed and that flood risks to the proposed attenuation pond and access road have been considered in the future climate change scenario.

### Other Considerations and Sources of Flood Risk

The FRA provides a robust assessment of flood risk from other sources, namely surface water, sewers, groundwater and artificial sources. Flood risk from these sources was assessed to be low and we agree that no site-specific mitigation is required. However, we do agree with the proposals to raise finished floor levels 150mm above adjacent ground levels.

The site is partially located in Zone 2 and Zone 3 of a designated groundwater Source Protection Zone (SPZ). As the Applicant is not proposing the use of deep soakaways (as discussed below) the development is not likely to pose risk to underlying groundwater quality.

### Surface Water Drainage

The FRA provides a summary of the proposed surface water drainage strategy. The Applicant proposes to attenuate surface water runoff using SUDS techniques prior to discharge to the minor watercourse to the south-west of the site. Discharge will be limited to the equivalent greenfield runoff rates for a range of storm events up to the 1 in 100 year event, including an allowance for climate change effects. We approve of this approach and require a detailed drainage strategy and supporting calculations to be submitted as part of any subsequent reserved matters application or planning conditions prior to construction. In accordance with the SFRA for Herefordshire and due to the existing flood risk issues within Leintwardine, we would require a range of discharge rates to be considered between the 1 in 1 year event and the 1 in 100 year event, thereby ensuring no increase during smaller rainfall events as well as larger events.

As identified within the FRA, Under Schedule 3 of the Flood Water Management Act 2010 (due to be enacted in 2015) all new drainage systems that meet the new National Standards for Sustainable Drainage and that are approved by the Lead Local Flood Authority (Herefordshire Council) may be eligible for adoption by Herefordshire Council. However, as the date for enactment of Schedule 3 is still unconfirmed, we require the Applicant to demonstrate who will be responsible for the adoption and maintenance of the drainage system should the detailed application be submitted prior to the enactment of Schedule 3.

In accordance with the draft National Standards for Sustainable Drainage and Policy DR4 of the Unitary Development Plan, the drainage strategy should incorporate the use of Sustainable Drainage Systems (SUDS) where possible. Infiltration measures are to be used unless it is demonstrated that infiltration is infeasible due to the underlying soil conditions or groundwater contamination risks. If drainage of the site cannot be achieved successfully through infiltration, the preferred options are (in order of preference): (i) a controlled discharge to a local watercourse, or (ii) a controlled discharge into the public sewer network (depending on availability and capacity).

The Preliminary Soakaway Assessment Technical Note submitted by the Applicant concluded that the use of infiltration techniques would not be an appropriate method for the management of surface water runoff at this site. Instead the Applicant proposes to discharge surface water runoff to the minor watercourse in the south-east of the site. We approve of this approach and find it in accordance with the draft National Standards for Sustainable Drainage and Policy DR4 of the Unitary Development Plan. We would, however, support the use of unlined attenuation structures that provide some infiltration potential and recommend that this is included within any subsequent reserved matters application or planning conditions prior to construction.

The Applicant proposes to use permeable paving in private access roads and driveways to supplement the storage provided within the proposed attenuation ponds. Whilst the use of

permeable paving is an acceptable method of surface water attenuation, if possible we would prefer the Applicant to maximise the use of the attenuation ponds or other above ground storage methods as there is some ambiguity regarding the long term performance of permeable paving. This is, however, a recommendation rather than a requirement.

The Applicant is required to submit evidence of adequate pre-treatment of surface water runoff prior to discharge to the minor watercourse to the south-east of the site. Evidence of adequate separation and/or treatment of polluted water should be provided, especially from proposed parking and vehicular areas. SUDS treatment of surface water is considered preferential but 'Pollution Prevention Guidance: Use and design of oil separators in surface water drainage systems: PPG 3' provides guidance on the necessity and application of oil separators should one be required.

### Foul Water Drainage

It is understood that the Applicant has agreed a strategy for the appropriate discharge of foul water with Severn Trent Water.

### Overall Comment

Overall, for outline planning permission, we do not object to the proposed development on flood risk and drainage grounds. However, should the Council be minded to grant outline planning permission, we recommend that the submission and approval of detailed proposals for the disposal of foul water and surface water runoff from the development is included within any reserved matters application or planning conditions associated with the permission. The detailed drainage proposals should include:

- Provision of a detailed drainage strategy and supporting calculations that demonstrates that opportunities for the use of SUDS features have been maximised, including the use of attenuation structures that promote infiltration of surface water runoff.
- Demonstration that the alignment of the minor watercourse to the south-east of the site has been considered in regard to the proposed location of the attenuation pond and access road and that the works will not affect the integrity or capacity of the watercourse.
- Demonstration that the potential effects of climate change have been considered with regards to fluvial flood extents and that flood risks to the proposed attenuation pond and access road have been considered in the future climate change scenario.
- Evidence that the Applicant is providing sufficient on-site attenuation storage to ensure that site-generated surface water runoff is controlled and limited to agreed discharge rates for all storm events up to and including the 1 in 100 year rainfall event, with a 30% increase in rainfall intensity to allow for the effects of future climate change.
- Demonstration that appropriate pollution control measures are in place prior to discharge.

4.12 The Parks and Countryside Manager raises no objections indicating:

*'It is noted that the revised layout to take account of landscape issues has resulted in an increase in the informal recreational area due to the reduction in the developable area at the north of the site in particular. This has increased the overall allocation of POS, green infrastructure and SuDS and in doing so still more than adequately meets the policy requirements.'*

*I have no further comments to make and my previous comments still stand particularly with regard to providing opportunities for both formal and informal recreation, which with the larger space is considered to be even more achievable and consideration of suitable management and maintenance arrangements in support of provision of open space and associated infrastructure within the open space in line with the Council's policies'.*

4.13 The Public Rights of Way Manager who initially objected to the application raises no objections indicating the amended development framework plan shows that public footpath LX30 will not be obstructed by the development. Objection removed.

4.14 The Housing Manager raises no objections. I refer to the above application and can confirm that I have been in negotiations with the developer and on this occasion a commuted sum in lieu of on site provision of affordable housing is acceptable. Therefore, support is given subject to confirmation/agreement of commuted sum amount.

4.15 The Conservation Manager, (Archaeology), raises no objections. The response indicating:

*'An appropriate archaeological field evaluation has taken place on the site. This evaluation was undertaken by Cotswold Archaeology of Cirencester, an expert and accredited archaeological contractor, under the guidance of the Heritage Collective of London. The evaluation consisted of the excavation of archaeological trial trenches across the site.*

*Whilst we await the final report on this evaluation, I was myself able to view and monitor all the trenches excavated, and am therefore confident in making an appraisal of the apparent implications.*

*In short, within the inherent limitations of the evaluation technique, the results were almost entirely negative. Virtually nothing of archaeological interest was found on the site, and there was nothing to indicate any potential for surviving archaeological interest on the site beyond the specific locations trenched.*

*Therefore, I do not consider that significant harm would occur as regards below ground remains here.*

*As I stated previously, in my comments of 18th August, there would be no significant harmful effect on setting of the former Roman settlement to the west or indeed other heritage assets in the locality of the development.*

*I note that other parties, in the interim (including for instance Leintwardine Group Parish Council), have argued that there would be such harm. However, I have to say that I find the archaeological arguments put forward in their submissions to be incomplete and unconvincing. In conclusion, I have no objections to the proposed development. An archaeological watching brief could be required as a precautionary under condition, but you may feel that this would be unreasonable under the circumstances, given the very low level of on-site interest suggested by the field evaluation'.*

4,16 The Schools Organisation and Capital Investment Manager raises no objections indicating financial contributions are required as set out in the draft heads of terms attached to this report The contribution for this development totals educational requirements equals £268,940.00

4.17 Waste & Recycling Manager has made comment that the north-west properties which are accessed over a shared drive have been allocated a collection point. Could it be confirmed that this is not more than 30m from the point on the adoptable highway marked with the number 7? Please also confirm that the allocated area will be large enough to stand at least 3 bins of size 360 litres (665mm wide by 880mm deep). This end of the cul-de-sac does not appear to have a

turning circle which can be used by a refuse collection vehicle therefore is not suitable for access without being amended.

The circular courtyard in the middle of the development doesn't show a bin collection point but appears that the furthest properties would be more than 30m from the main through road. Total in accordance with Planning Obligations as indicated on attached draft Heads of Terms equals £5400.00

## 5. Representations

5.1 Leintwardine Group Parish Council met on 4th December and wish to maintain their objection to the application P142215/O, Land off Rosemary Lane, Leintwardine, Herefordshire.

The amendments to overall dwelling numbers, landscaping and screening do nothing to overcome our fundamental objection to the principle of this development.

We expect our concerns will be given full weight in assessing this application. Our view remains that the application should be recommended for refusal.

Also, please see the email below and confirm that the highway matter detailed there in has been noted.

The Parish Council's engaged Kirkwells Planning Consultancy to respond on behalf of the Parish Council to the application. This response is lengthy in detail and a summary of the key points as stated in the response states:

*'Planning application P142215/O should be refused for the following reasons:*

- *The proposed development would have a significant and demonstrable adverse impact on the setting of Leintwardine village. This would outweigh any of the benefits of the proposed development and be contrary to Policy LAS "Setting of Settlements" of the adopted Unitary Development Plan (UDP).*
- *The proposed development would have a significant and demonstrable adverse impact on the setting of the Scheduled Monument of Bravinium. This would outweigh any of the benefits of the proposed development and be contrary to Policy ARCH3 "Scheduled Ancient Monuments" of the UDP.*
- *As acknowledged in the applicant's own Landscape and Visual Assessment the proposed development would have an adverse impact on the local character and setting and on the "pastoral setting to the east of Leintwardine". These impacts cannot be mitigated and the application is therefore contrary to Policy LA2 "Landscape Character" of the UDP.*
- *In assessing the impact on the Scheduled Monument the applicant has failed to describe the significance of the heritage asset affected, including any contribution made by their setting. This is contrary to paragraph 128 of the National Planning Policy Framework.*
- *In failing to describe the significance of the heritage asset affected, the applicant has also failed to identify the harm and loss that will be caused through alteration and destruction of the Scheduled Monuments setting. Failure to provide a clear and convincing justification for the development is contrary to para. 132 of the National Planning Policy Framework.*
- *This development will also involve introducing built form onto the slopes away from the village into the valleys, with a detrimental effect on the character and significance of the*

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



*Roman settlement of Bravinium Scheduled Monument, and the Leintwardine Conservation Area which maintains a wider boundary than Bravinium. This is substantial harm to a nationally significant area by way of the detrimental effect on the setting. This is directly contrary to Paragraph 133 of the National Planning Policy Framework (NPPF) and to Policies S7 and ARCH3 of the Herefordshire UDP which seek to protect the historic heritage in terms of feature and setting, both built and natural, from future development proposals.*

- *A development of 57 dwellings, in a rural area, where car ownership is significantly higher due to the lack of public transport, will create an increased number of am and pm peak trips. This coupled with the existing problems associated with Rosemary Lane and the single file areas, will undoubtedly create traffic issues and highway safety problems in the immediate vicinity, leading to pedestrian and vehicular conflict to the detriment of highway safety in the area. This proposal is, therefore, also contrary to Policy S6 of the Herefordshire UDP and Paragraph 32 of the NPPF.*
- *The proposed development also has the potential to impact on a European protected species and is contrary to Policy NC5 of the adopted UDP.'*

The conclusion to the report states:

*'In the normal course of events this planning application would be determined in accordance with the development plan and would, therefore, be contrary to existing planning policy (specifically policy H4 in the 2007 UDP).*

*However, currently the "normal course of events" does not apply because Herefordshire cannot demonstrate a five-year supply of housing land. As a result, the policies in the UDP for housing restraint are considered out of date.*

*In such cases, para. 14 of the NPPF states that for decision taking :*

*"Where the development plan is absent, silent or relevant policies are out-of-date, local planning authorities should grant 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."*

*This presumption in favour of granting planning permission would normally take effect. But this is qualified in NPPF where there are "any adverse impacts" which would "significantly and demonstrably outweigh the benefits", crucially when assessed against the NPPF as a whole. This objection demonstrates that there are adverse impacts that significantly outweigh the benefits of the proposal.*

*The current planning application should therefore be refused for the following reasons:*

- *The proposed development would have a significant and demonstrable adverse impact on the setting of Leintwardine village. This would outweigh any of the benefits of the proposed development and be contrary to Policy LA3 "Setting of Settlements" of the adopted Unitary Development Plan (UDP).*
- *The proposed development would have a significant and demonstrable adverse impact on the setting of the Scheduled Monument of Bravinium. This would outweigh any of the benefits of the proposed development and be contrary to Policy ARCH3 "Scheduled Ancient Monuments" of the UDP.*

- *As acknowledge in the applicant's own Landscape and Visual Assessment the proposed development would have an adverse impact on the local character and setting and on the "pastoral setting to the east of Leintwardine". These impacts cannot be mitigated and the application is therefore contrary to Policy LA2 "Landscape Character" of the UDP.*
- *In assessing the impact on the Scheduled Monument the applicant has failed to describe the significance of the heritage asset affected, including any contribution made by their setting. This is contrary to paragraph 128 of the National Planning Policy Framework.*
- *In failing to describe the significance of the heritage asset affected, the applicant has also failed to identify the harm and loss that will be caused through alteration and destruction of the Scheduled Monuments setting. Failure to provide a clear and convincing justification for the development is contrary to para. 132 of the National Planning Policy Framework.*
- *This development will also involve introducing built form onto the slopes away from the village into the valleys, with a detrimental effect on the character and significance of the Roman settlement of Bravinium Scheduled Monument, and the Leintwardine Conservation Area which maintains a wider boundary than Bravinium. This is substantial harm to a nationally significant area by way of the detrimental effect on the setting. This is directly contrary to Paragraph 133 of the National Planning Policy Framework and to Policies S7 and ARCH3 of the Herefordshire UDP which seek to protect the historic heritage in terms of feature and setting, both built and natural, from future development proposals.*
- *A development of 57 dwellings, in a rural area, where car ownership is significantly higher due to the lack of public transport, will create an increased number of am and pm peak trips. This coupled with the existing problems associated with Rosemary Lane and the single file areas, will undoubtedly create traffic issues and highway safety problems in the immediate vicinity, leading to pedestrian and vehicular conflict to the detriment of highway safety in the area.*

*This proposal is, therefore, also contrary to Policy S6 of the Herefordshire UDP and Paragraph 32 of the NPPF. • The proposed development also has the potential to impact on a European protected species and is contrary to Policy NC5 of the adopted UDP'.*

5.2 The Campaign to Protect Rural England (Herefordshire Branch), objects to the application their response stating:

1. Leintwardine is an historically important settlement. It derives from the Roman station, Bravinium (Branogenium) and the core of the contemporary village lies on the site of the Roman settlement, lying on the road between Caerleon and Chester, as well as between Kenchester and Wroxeter. Archaeological evidence suggests that it has been continuously inhabited which gives it a unique status within Herefordshire, since the County's other three Roman towns were abandoned. The Roman remains (some of the ramparts are visible) are of national importance.

The archaeological significance of Leintwardine is a material consideration that must be given due regard when considering the application. The Conservation Management Plan for Leintwardine (2014) published by Herefordshire Archaeology Department provides a comprehensive account of the current state of knowledge of old and recent findings.

2. It is our view that the proposal does not have sufficient regard to the setting of the proposed development site that abuts the eastern edge of the village that lies on the ancient monument. Any large development against the eastern edge of the existing

village boundary will result in a changed landscape and a physical visual intrusion into an old landscape. The earlier development on the eastern edge and on Rosemary Lane encroached on what had hitherto been greenfield land thereby altering the setting of the older parts of the village. But that is not a sufficient reason to further develop in the same direction.

3. Despite the inclusion of an Archaeological Assessment as required, the application, in our view, would not to comply with the requirements of NPPF, Section 12 that developments should "enhance the historic environment" and should "make a positive contribution to local character and distinctiveness". Nor does it comply with Policy SS6 of Herefordshire's Local Plan (2014).
4. The proposed site is a green field one, outside the existing settlement boundary. The two fields concerned are old pasture land bounded by hedgerows that are displayed on maps such as the Tithe Map and the 1885 map. The evidence presented in both the Conservation Management Plan and in the Archaeological Assessment shows that the fields have existed as pasture land for hundreds of years. If the development is allowed, it will result not only in the loss of old pastures but also anything underneath. That the fields have never hitherto been adequately investigated in any detail does not imply that there is nothing of interest below the immediate surface.

"...the application site on the periphery of Leintwardine in both the Roman and medieval periods may suggest it was used as agricultural land associated with the occupation of the town. In addition, extensive evidence for later prehistoric activities within the study area and the position of the site in a prominent river valley position in close proximity to a water source suggests it may have been an attractive position for settlement and associated ritual activity during these periods" para 5.2 "Foundations, service trenches and other intrusive ground works will impact on the existing ground. Any intrusions may encounter the remains of later prehistoric, Roman or medieval occupation associated with the settlement of Leintwardine and intrusive ground works associated with any element of the development may encounter as yet unknown archaeological remains" para 5.5.

It would seem imperative that the site be thoroughly investigated before any interference is allowed. LD4 Local Plan.

5. The sole vehicular access to the site is proposed to be off Rosemary Lane. This is a narrow lane, mostly incapable of accommodating two cars abreast. It is use by farm and heavy goods vehicles and seems to be completely unsuitable for the large increase in use that would be generated by residents of 57 dwellings. Because of the lack of public transport it is highly likely that nearly all households will have one car, some will have two or three. In addition there will be delivery vans, visitors and others that will add to the numbers. At peak travel times there could be a large number of cars moving on and off the site which will add to the number already using the lane. Further west the lane gives access to an industrial site where upwards of twenty people are employed, and the Fire Station as well as existing dwellings. At the western end the junctions with Watling Street and the High Street are likely to become very difficult. There is insufficient space for a pedestrian footpath. It seems highly likely that it will become very hazardous for pedestrians and cyclists and inconveniently narrow for drivers of all types of vehicles. This would make the site unsuitable for development. SS4
6. The application is for 57 dwellings which appear to be more than is required by Policy RA2 of the Local Plan. Furthermore it seems that there are unoccupied dwellings on the most recent development in the village. Therefore the motive for proposing 57 further dwellings is questionable. An oversupply of dwellings in a village where employment opportunities are nearly zero, public transport is sparse and local schools are already full

is not a sustainable project. Lack of adequate public transport results in an increase in car journeys, adding to local traffic problems and environmental pollution contrary to principles in the NPPF of building sustainable communities, (para 14.)

7. Despite a plethora of statements made in the application documents that describe the layout of the development, landscaping, types of materials etc. none of such matters form part of the application now available for public scrutiny and comment. Indeed the application states that "all other matters relating to appearance, landscaping and scale to be reserved". The site plans etc. in the documents are merely schematic. And yet many of the features of a development in such a sensitive area that might make it more or less acceptable are not in this case, open to public scrutiny; such is the nature of an OUTLINE application.

HCPRE objects very strongly to such a strategy. It appears that the applicant is seeking to be allowed a development on which the local community will have no influence. It is completely unacceptable that all the matters mentioned should be delegated to officer decisions. We urge that if the proposal for a development of 57 dwellings on the site is allowed then a second application should be required to deal with all other matters in accord with NPPF Principle 17.

8. We are concerned about the drainage difficulties on the site. The application documents record that the ground has low permeability and poor filtration rates. Conventional soakaways would not be feasible. In addition the site slopes from higher ground to the northwest of the site towards the lower south east part. There is evidence from past winters that Rosemary Lane gets flooded and at the western end towards the bridge there is often significant flooding. Given that once development has happened there will be a large increase in surface areas for rain water to run off, 57 roofs, hard standing, pathways and internal roads with a concomitant decrease in absorbent pasture. Some technical solutions might be satisfactory but an independent detailed assessment of their adequacy is required. The suggestion of an untested attenuation pond is far from ideal. Ponds present hazards for children and their condition monitored to prevent stagnation. The adequacy of the local sewage works to be able to deal with foul water needs to be ensured. It is essential to prevent any further pollution of local rivers by discharges of ground water. SD4

**Summary** HCPRE objects to the application for 57 dwellings on this sensitive site, with its attendant inadequate access and problems of drainage

- 5.3 At the time of writing this report 180 letters of objection have been received, several having written more than one letter. These include a petition signed by 373 persons, a letter from the Head Teacher of Leintwardine Primary School and a letter from the chair of Leintwardine History Society. Key comments raised can be summarised as follows:

- Development is not considered sustainable.
- Public highway access to the site is not suitable in relationship to the scale of the development.
- Detrimental impact on character of the village setting.
- Impact on Conservation Area and historic environment which includes matters of an archaeology interest.
- Concerns about flooding and drainage.
- Development will encroach into the surrounding rural landscape.

- Existing infrastructure can not absorb the development such as the local Primary school which is at capacity.
- Detrimental impact on amenity and privacy to surrounding dwellings.
- Concerns about insufficient public consultation in respect of the proposed development.
- Development not in accordance with the village plan.
- Lack of local employment for occupiers of the dwellings.
- Impacts on local biodiversity.

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

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

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

## 6. Officer's Appraisal

6.1 The application seeks planning permission for the erection of 45 dwellings on a greenfield site consisting of two grassland fields located alongside the south eastern fringe of the village immediately outside but alongside the recognised development boundary for Leintwardine. The site has been subject to the Strategic Housing Land Availability Assessment (SHLAA) and categorised as feasible for development having low/minor constraints.

The key issues are considered to be:-

- The principle of development.
- The sustainability of the scheme having regard to the presumption in favour of sustainable development.
- The scheme's impact on the existing settlement in terms of privacy, character and amenity,
- Impact on highway safety.
- Drainage and flooding matters.
- The impact of the development in relationship to the historic environment and landscape.
- The provision of affordable housing.

### The Principle of Development

6.2 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."*

- 6.3 In this instance the Development Plan for the area is the Herefordshire Unitary Development Plan 2007(UDP). UDP policy S3 sets out provision for the erection of 800 dwellings per year between 2001 and 2007 and 600 per year thereafter. The distribution for housing is split between Hereford and the market towns, main villages and the wider rural area. The plan is time-expired, but relevant policies have been 'saved' pending the adoption of the Herefordshire Local Plan/Core Strategy. UDP policies can only be attributed weight according to their consistency with the National Planning Policy Framework, (NPPF). Essentially, the greater the degree of consistency, the greater the weight that can be attached.
- 6.4 Leintwardine is defined as a main village under saved UDP Policy H4 and offers within its built up boundary, a range of public facilities such as two public houses, butchers shop, garage and village stores, community centre, small library and IT centre, primary school, church, medical centre and also has a public transport bus service to surrounding larger areas such as Leominster and Ludlow and thus is considered a sustainable settlement suitable for residential development. However, the site falls outside but adjacent to the settlement boundary. Development is thus contrary to 'saved' UDP policy H4 and none of the exceptions under Policy H7 are met. It is clear, therefore, that the proposal is contrary to the housing delivery policies of the UDP.
- 6.5 The two-stage process set out at S38 (6) requires, for the purpose of any determination, assessment of material considerations. In this instance the NPPF is the most significant material consideration. Paragraph 215 recognises the primacy of the Development Plan but only where saved policies are consistent with the NPPF:-
- "In other cases and following this 12-month period, due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)."*
- 6.6 The effect of this paragraph is to effectively supersede the UDP with the NPPF where there is inconsistency in approach and objectives. The NPPF approach to Housing Delivery is set out in Chapter 6 – Delivering a wide choice of high quality homes. Paragraph 47 requires that local authorities allocate sufficient housing land to meet 5 years worth of their requirement with an additional 5% buffer. Deliverable sites should also be identified for years 6-10 and 11-15.
- Paragraph 47 states: *"Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites."*
- The effect of this paragraph is to supersede the UDP with the NPPF where there is inconsistency in approach and objectives. As such, and in the light of the housing land supply deficit, the housing policies of the NPPF must take precedence and the presumption in favour of approval as set out at paragraph 14 is engaged if development can be shown to be *sustainable*.
- 6.7 The NPPF approach to Housing Delivery is set out in Chapter 6 – Delivering a wide choice of high quality homes. Paragraph 47 requires that local authorities allocate sufficient housing land to meet 5 years' worth of their requirement with an additional 5% buffer. Deliverable sites should also be identified for years 6-10 and preferably years 11-15 too. Paragraph 47 underlines that UDP housing supply policies should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites.
- 6.8 The Council's published position is that it cannot demonstrate a five year supply of housing land. This has been reaffirmed by the recently published Housing Land Supply Interim Position Statement – May 2014. This, in conjunction with recent appeal decisions, confirms that the Council does not have a five year supply of deliverable housing land, is significantly short of

being able to do so, and persistent under-delivery over the last 5 years renders the authority liable to inclusion in the 20% bracket.

- 6.9 In this context, therefore, the proposed erection of 45 dwellings on a deliverable and available SHLAA low/minor constraints site is a significant material consideration telling in favour of the development to which substantial weight should be attached.
- 6.10 Taking all of the above into account, officers conclude that in the absence of a five-year housing land supply and advice set down in paragraphs 47 & 49 of the NPPF, the presumption in favour of sustainable development expressed at Paragraph 14 of the NPPF is applicable if it should be concluded that the development proposal is sustainable. As such, the principle of development cannot be rejected on the basis of its location outside the UDP settlement boundary.
- 6.11 On this issue, officers conclude that in the light of the housing land supply issue and NPPF policies, the principle of development at this location outside but adjoining the UDP defined settlement boundary, is acceptable.

#### Hereford Local Plan – Draft Core Strategy 2013-2031

- 6.11 The Draft Local Plan is not sufficiently advanced for its policies to be attributed weight for the purposes of decision making and this has been borne out by the Home Farm decision. It is the case, however, that Leintwardine is identified as a settlement within policy RA1 where it is anticipated that proportionate growth will occur during the plan period to 2031. This provides for 14% housing growth which equates to approximately 35 dwellings. It is clear, therefore, that Leintwardine can expect to accommodate proportionate growth over the plan period and this is generally accepted. It is the timing of and location of development that are in dispute; the Parish Council and a number of local residents stating that large-scale development of this nature is unsustainable and prejudicial to emerging policy plan proposals; although recent appeal decisions confirm that emerging neighbourhood plans cannot be given weight for the purposes of decision taking.
- 6.12 On this basis officers conclude that in the absence of a five-year housing land supply the presumption in favour of *sustainable development* set out at Paragraph 14 of the NPPF should apply (if it should be concluded that the development is sustainable) and the principle of development cannot be rejected on the basis of its location outside the UDP settlement boundary.

#### The Presumption in Favour of Sustainable Development

- 6.13 In order to engage the presumption in favour of the approval of sustainable development, a proposal must first demonstrate that it is representative of sustainable development. Although not expressly defined, the NPPF refers to the three dimensions of sustainable development as being the economic, environmental and social dimensions. The NPPF thus establishes the need for the planning system to perform a number of roles including, *inter alia*, providing the supply of housing required to meet the needs of present and future generations and by creating a high quality built environment.
- 6.14 The economic dimension encompasses the need to ensure that sufficient land is available in the right places at the right time in order to deliver sustainable economic growth. This includes the supply of housing land. The social dimension also refers to the need to ensure an appropriate supply of housing to meet present *and* future needs and this scheme contributes towards this requirement with a mix of open market and affordable units of various sizes. Although not allocated for housing development; it being the intention in Herefordshire that neighbourhood plans fulfil this function, the site has been assessed via the Strategic Housing Land Availability Assessment as having low/minor constraints and being capable of delivery within the first five years of the plan period. The current application is testimony to this. In the context of

persistent under-delivery, including some large-scale UDP allocated housing sites on which development is still yet to commence; officers consider the immediate deliverability of this site to be a material consideration.

6.15 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.

6.16 The requirement to ensure the supply of housing is boosted, is further reinforced at paragraph 47 and paragraph 49 confirms that housing policies within the adopted development plan cannot be considered up to date in the absence of a five-year supply of deliverable housing sites.

6.17 Whilst it is acknowledged that the application is made in outline with all matters other than access reserved for future consideration, the NPPF in paragraph 56 confirms that the Government attaches great importance to the design of the built environment, confirming that “good design is a key aspect of sustainable development” and “indivisible from good planning.” Good design should contribute positively to making places better for people. The NPPF recognises it is important to plan positively for the achievement of high quality and *inclusive* design for all development, including individual buildings, public and private spaces and wider area development schemes.

6.18 Within this overarching approach it is recognised that design policies should avoid unnecessary prescription or detail and should concentrate on guiding the overall scale, density, massing, height, landscape, layout, materials and access of new development in relation to neighbouring buildings and the local area more generally. Paragraph 60 states as follows:-

*“Planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is, however, proper to seek to promote or reinforce local distinctiveness.”*

6.19 ‘Saved’ UDP Policy DR1 (1) echoes the general aims and objectives of this approach, avoiding prescription, but advocating design that where relevant seeks to “promote or reinforce the distinctive character and appearance of the locality in terms of a range of issues including layout, density, scale, height and design. The appearance of individual buildings is not mentioned specifically and this is considered consistent with the NPPF guidance that policies should guide in relation to scale *et al* rather than prescribe an architectural approach. DR1 (3) also requires, where relevant that development should “respect the context of the site, taking into account townscape and landscape character and topography, including the impact of the proposal on urban vistas, longer distance views and ridgelines.”

It is considered that the latest amended layout plans do show recognition to the site’s rural location and the layout form of the village in the area of the site subject to this application.

#### Accessibility to Goods, Services and Employment

6.20 As regards the sustainability of the site in locational terms, a number of representations refer to the lack of access to suitable necessary goods, services and employment opportunities. It is argued that the bus service, although relatively good by comparison with other rural services, is



not a genuine alternative to the private motor car. Comment has been made that Leintwardine does not have many employment opportunities within the parish and that Leintwardine should be allowed to grow at a consistent rate throughout the Core Strategy plan period.

- 6.21 Whilst taking this into account, it is relevant that Leintwardine is identified as a main village in the UDP and it is intended that this remain the case in the Draft Local Plan – Core Strategy. Emerging policies anticipate that rural settlements such as Leintwardine will accommodate proportionate growth over the plan period; it is the means by which the need is met that is an issue. However, given that Leintwardine is identified as a main village in the existing and emerging Development Plans, officers do not consider it can be argued simultaneously that such villages are unsustainable locations for proportionate housing growth. On this point officers are mindful of the Inspector's conclusion in relation to the recent appeal at Whitehouse Drive, Kingstone, where the sustainability of the settlement was also at issue. The Inspector identified Kingstone's inclusion as a main village in the UDP and the proposed inclusion as a RA1 settlement in the emerging Core Strategy – as is the case with Leintwardine. Whilst noting that Kingstone did not contain all of the facilities necessary for day-to-day existence he held the view that it did support sufficient facilities to warrant its status as a sustainable location for future housing growth. Officers consider that this conclusion is equally applicable to Leintwardine, which offers a range of services as indicated in paragraph 6.4 above. To conclude that Leintwardine is not a sustainable location for housing delivery would seriously undermine the evidence base supporting the Core Strategy; specifically the housing delivery policies and is not, in the opinion of your officers, arguable.

#### Design, Layout and Architecture

- 6.22 It is acknowledged that good design is indivisible from sustainable development. Neither local nor national policy seeks to impose a straitjacket on designers. Good, innovative design is actively encouraged, particularly where it has the ability to promote or reinforce local distinctiveness. The local planning authority acknowledges the challenge that creating a sense of place can pose designers; particularly on mid-size schemes on discrete parcels of land at the edge of a rural settlement such as Leintwardine. The Council acknowledges the benefits to be derived from the provision of a good housing mix, but also that on schemes of 45 dwellings this in itself can present challenges in terms of giving a scheme qualities that ground it within the local context but also a unity within the scheme itself. In this instance whilst acknowledging the application is in 'outline' the mixture of housing type and bedroom provision is of such that is considered appropriate to the local character and context. Incorporating a divergence of house-types is illustrative of the difficulty inherent in unifying manifestly different 'products' and thereby creating a 'sense of place'. It is the case, however, that traditional villages that have grown organically and less rapidly over time do have just such a mix – the large manor house and farmhouse, the small and medium sized cottages, the bakery and the smithy etc.
- 6.23 Officers agree that the submitted Design and Access Statement and supporting information is accurate insofar as its assessment of the existing built form is concerned and believe it reasonable to describe Leintwardine as comprising a mixture of properties including period properties, which also includes properties in more of a cul-de-sac form as is prevalent adjacent to the site. Watling Street which is a linear street of distinctive character is the residential area nearest to the site which is within the designated Conservation Area. Rosemary and The Wardens which are sandwiched between Watling Street and the site is of a cul-de-sac layout. Overall it is considered that the proposed layout of the site does show consideration to these residential areas whilst also with its 'green credentials' acknowledging the site's edge of settlement location. Thus there is no overall prevailing character. Leintwardine is not without numerous examples of traditional Herefordshire vernacular, it is just that in terms of volume these examples are becoming out numbered by the more modern development which now serves as a backcloth to the period properties located in the heart of the village.

- 6.24 From vantage points to the west Leintwardine is defined mainly by its historic nature. There is a hard edge to the settlement when viewed from public vantage points from the east. The SHLAA acknowledges this, indicating that development of the site will allow for landscaping in order to rectify this situation. The northern and southern section are slightly more mixed, but more in tune with the western side. Most of the historic development is inward looking. Whilst it is not uncommon for traditional ribbon development to present flank or rear elevations to open countryside, this is often in a different context to that of the more recent development and the proposal here, where dwellings will stand in close proximity to each other reflective and intermingling with the boundary with open countryside.
- 6.25 The geometry of the application site is such that it is hard to conceive a response other than in the manner of a 'small estate' road, with dwellings fronting on either side. It is a consequence of circumstance, that connection cannot be made through existing immediate developments. However the site is considered to be very easily assessable on foot to the core of the village and the community facilities associated with the village community.
- 6.26 Revisions to the layout and housing numbers and landscape appearance and integration have been undertaken in response to officer concerns during the application processing and with consideration to the responses from members of the public. Principally the layout of the site has been reviewed, with significant overhaul to the density and layout in order that development on site is better integrated into the surrounding built environment and with particular consideration to the rural landscape to the east of the site. The applicants having responded to concerns in relationship to the layout and density of the original proposal, the current layout and density of 45 dwellings as opposed to 73 when discussions first commenced with the applicants' representatives in relationship to this site is considered more reflective of the surrounding built environment and landscape.
- 6.27 Given the overall housing mix, density and layout present in Leintwardine, it is difficult to reconcile policies that require the reinforcement or promotion of local distinctiveness with proposals for modern housing development, particularly where local distinctiveness has been blurred over time by comparatively C20th expansion; as has been the case in this settlement.
- 6.28 In conclusion, it is considered that the proposed development in terms of density, layout and impact is one that overall will integrate into the surrounding built environment and landscape in an acceptable manner and this includes consideration to the nearby historic assets which include reference to the Conservation Area and its archaeology importance to which it is considered the development will not have a detrimental impact on the overall setting. In this context the principle of development is not considered inherently an unsustainable approach but is broadly consistent with overall organic growth of the settlement concerned.

#### Impacts in Relationship to Highway Matters

- 6.29 A substantial number of representations and Parish Council have raised highway access and safety as a significant area for concern. It is highlighted that the proposed access into the site is off Rosemary Lane a sub-standard road in order to accommodate the increase in traffic as a result of the development, which will entail use of what is considered a substandard road leading to a junction onto the adjoining A4113. The Parish Council planning consultants have identified two pinch points on the adjoining Rosemary lane leading to the site from the A4113 which they consider will exacerbate issues of highway concern during 'peak' time traffic movements. The consultants report on behalf of the Parish Council also disputes the applicants own traffic assessment in relationship to traffic surveys at the junction of Rosemary lane with the A4113 which they consider underestimates evening peak hour trips and that surveys conducted by the Parish Council over an 3 day period indicate 31.6% higher vehicular movements.

- 6.30 Objectors have also identified concerns about the density of the development in relationship to surrounding public highways to the village and concerns about lack of sufficient public transport and flooding issues in relationship to these highways.
- 6.31 Saved UDP policy DR3 requires, where relevant, that development should provide a safe, convenient and attractive pattern of movement into, out of and across development sites, particularly for pedestrians, people with disabilities and the elderly. The NPPF has concise guidance at paragraph 32. It concludes that development should only be refused on transport grounds where the residual cumulative impacts of development are severe. In this instance the development would be served by an access onto the C1014 and this meets the Council's Highways Design Guide. Whilst it is regrettable that in order to create an entrance into the site with adequate visibility splays, native hedgerow alongside the site's frontage will be lost, this is considered to be of low ecological value and adequate mitigation is offered to remedy this. Visibility as a consequence will be acceptable across the frontage. It is also noted that as part of the realignment of the southern boundary a footpath will be included linking the site's main entrance towards the village centre. Furthermore the developer has given an undertaking that S106 contributions will be paid to provide sustainable transport infrastructure in order to serve the development, this can be used towards the potential for delivery of traffic calming and/or pavement improvements. The site will also be well linked to the village centre by other footpaths that lead from the site towards the village centre. The village of Leintwardine is well served by 'A' class roads that take motorists in a northerly, southerly and western direction. Concerns about flooding issues, (whilst it is acknowledged does happen on occasions south of Leintwardine), with consideration to the amount of dwellings proposed, (45), is not considered a sufficient material consideration on which basis to refuse the application. Therefore taken as a whole, it is not considered that the scheme would result in the significant residual cumulative impacts necessary to justify a refusal on transport grounds.

#### Drainage and Flooding Matters

- 6.32 The site is located in Flood Zone 1 which is considered low risk zone in accordance with the Environment Agency Flood Risk Maps. The applicants have submitted as part of their application a flood risk assessment, (area of site in excess of 1 hectare), to which neither the Environment Agency or the Land Drainage Manager raises any objections with regards to its findings. The application proposes a SUD's attenuation pond as a biodiversity feature on the site's eastern side, this is welcomed to which it is noted none of the relevant consultees raise any objections. The application is in 'outline' to which the principle of drainage issues is considered acceptable, and as such it is recommended that the advice as given by Severn Trent and the Land Drainage Manager is adhered to and conditions with regards to drainage and surface and foul water drainage are attached to any approval notice issued in order that these matters are addressed at the 'reserve matters' stage.

#### Impacts of the Development in Relationship to the Historic Environment and Landscape

- 6.33 The Council is under a statutory duty to consider the impact of the proposal upon the adjoining heritage assets. The site is not located within the designated Leintwardine Conservation Area or within close proximity to the setting of any listed buildings. (Conservation Area is in excess of 100 metres from where it is proposed to construct dwellings). However Leintwardine as a village is of historic importance being the site of an old Roman Fort 'Branogenium' (Branvinium). The site of which as part of the scheduled ancient monument is located on the south western side of the village, to which much of the southwest and south of the village is designated as 'Special Area for Conservation' (In excess of 200 metres from the application site), in accordance with the UDP inset map for Leintwardine. Watling Street (in excess of 100 metres from the site), and its setting is also considered to be of significance historic interest.

- 6.34 Impacts on heritage assets and the historic environment which includes consideration to the setting of the Conservation Area are a material consideration in the determination of this application.
- 6.35 Paragraph 132 of the NPPF indicates in relationship to the historic environment:
- ‘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. As heritage assets are irreplaceable , any harm or loss should require clear and convincing justification.’*
- 6.36 Paragraph 134 of the NPPF states:
- ‘Where a development proposal will lead to less than substantial harm to the significance of a designated asset, the harm should be weighed against the public benefits of the proposal, including securing its optimum viable use’.*
- 6.37 The Conservation Manager, (Historic Buildings), has responded to the application with no objections indicating that a heritage assessment has been submitted as part of the application which is thorough and highlights the main issue – that the proposed development would further dislocate the conservation area from its more agricultural setting and that the conclusion of the report that this is already evident to a degree by more recent development to the west of the site is correct. It is noted that English Heritage also raises no objections.
- 6.38 With consideration to the scheduled ancient monument and matters of an archaeological interest the applicants have conducted a detailed and what is considered an appropriate archaeological field evaluation of the site. This evaluation was undertaken by an expert and accredited archaeological contractor, under the guidance of the Heritage Collective of London. The evaluation consisted of the excavation of archaeological trial trenches across the site. The Conservation Manager (Archaeology) has indicated that results of the survey were almost entirely negative, and that virtually nothing of archaeological interest was found on the site, and there was nothing to indicate any potential for surviving archaeological interest on the site beyond the specific locations trenched and as such considers that no significant harm would occur as regards below ground remains or on any other heritage assets in the locality of the development.
- 6.39 Whilst it is acknowledged that substantial numbers of letters of objections received raise concerns about impacts on heritage assets and in particular the response from Leintwardine Parish Council’s Planning Consultants who have indicated that the proposed development would have a significant and demonstrable adverse impact on the setting of the Scheduled Monument, these views are not shared and it is your Officers opinion that development of 45 dwellings on site will not have a detrimental impact on the heritage assets of the settlement concerned and furthermore although the impact on pastoral fields is acknowledged, (as indicated in the landscape and visual appraisal submitted in support of the application), the development is of density and scale that it is considered will integrate into the surrounding landscape and therefore not impact on the setting of the settlement. There is no overall significant harm to its setting and the landscape it is located within, as acknowledged by the Conservation Manager (Landscape) which indicates the density of development on site as appropriate in relationship to the surrounding environment. Landscape mitigation as offered by the applicants will also help integrate the development on this side of the settlement more successfully into the rural landscape than the harsh appearance as at present, this a matter as highlighted in the SHLAA for the site.
- 6.40 The development is therefore considered acceptable in relationship to heritage assets as well as in relationship to the landscape and its impact, with mitigation as proposed, and as such

raises no concerns in relationship to relevant historic, archaeology and landscape policies in the UDP or the NPPF.

#### Provision of Affordable Housing

- 6.41 The applicants submitted the application with a request to pay an off-site commuted sum towards affordable housing provision which would equate to 35% of housing on site. The Council's Planning Obligations Document does allow for this in exceptional circumstances. The Council's Housing Manager and Planning Obligations Manager agree to the principle of this and it is understood that Leintwardine Parish Council supports this stance in the event of approval for the development. (It is fully acknowledged that the Parish Council does not support the principle of the application).
- 6.42 The Council considers this an acceptable proposal with consideration to a recent 'sole' affordable housing development located on the northern edge of the village, and therefore as a consequence Leintwardine has recently had a significant 'affordable housing' development in order to meet local demand for affordable housing. However it must be made clear that there is a requirement for affordable housing in the surrounding area in which Leintwardine, (a main village in accordance with UDP policy) is located.
- 6.43 Negotiations between the Council and the applicants have failed to reach an acceptable conclusion to both parties at present with regards to the amount of off-site commuted sum in respect of affordable housing provision and as such it is recommended that the application be delegated by Committee to Officers to resolve this matter (within a specific time period), in liaison with the Chairman of Planning Committee and interim Ward Member.

#### Other Matters

##### Development should be considered on Brown Field Sites before that of a Green Field Site

- 6.44 It is acknowledged that the site is a 'greenfield' site which is identified in the Strategic Housing Land Availability Assessment and categorised as being achievable and appropriate for housing development with low/minor constraints. Whilst it is acknowledged that other sites may be feasible for development, none to date have come forward for consideration for housing development.

#### Benefits Arising From the Proposal

- 6.45 S38(6) of the Planning and Compulsory Purchase Act necessitates review of other material considerations alongside the provisions of the Development Plan in exercising the 'planning balance'. The main material consideration in the context is the National Planning Policy Framework, which supersedes the housing supply policies of the UDP. As such the acknowledged shortfall in deliverable housing sites represents a consideration of significant weight in favour of the scheme. The scheme would also boost the supply of housing and go some way to addressing the current need for affordable housing within the parish. In terms of the economic dimension of sustainable development, the development would introduce benefits in terms of the New Homes Bonus, as well as investment in jobs and construction in the area.
- 6.46 S106 contributions of £196076 have been confirmed. It is agreed that contributions towards education infrastructure, open space and sustainable transport strategies are compliant with the CIL regulations (122(2)). In this respect the scheme complies with 'saved' UDP policy DR5, the Planning Obligations SPD and the Framework.

### Overlooking and Impact on Amenity

- 6.47 Objectors have referred to loss of amenity. Having enjoyed an aspect over open countryside this is understandable. Loss of outlook is not, however, a material planning consideration.
- 6.48 Loss of amenity arising from direct and prejudicial overlooking is a material consideration. The reserve matters application will deal with matters in relationships to terms of window-to-window distance and household amenity issues.

### Biodiversity/Ecology and Play Area/Recreational Space in Relationship to the Development on Site

- 6.49 Paragraph 118 of the NPPF indicates that local planning authorities should make use of opportunities to incorporate biodiversity in and around developments which should be encouraged.
- 6.50 The planning consultants on behalf of the Parish Council have raised concerns that the proposed development also has the potential to impact on a European protected species and is therefore considered contrary to Policy NC5 of the adopted UDP'. The applicants have submitted in support of their application ecological surveys and this includes an additional pond assessment in relationship to ponds surrounding the site. (Great crested newts are a European protected species). It is noted that the Planning Ecologist as well as Natural England raise no objections on ecological issues, the Planning Ecologist recommending attachment of a condition with regards to a habitat enhancement scheme in relationship to the mitigation measures and enhancement opportunities as highlighted in the ecological report submitted in support of the application
- 6.51 The site plan in support of the application indicates an attenuation pond as a strong feature to the site, which will also act as part of a SUD's drainage strategy and this is to be landscaped with naturalistic planting and recreational space. The pond is located to the east of the site.
- 6.52 The Parks and Countryside Manager raises no objections to this proposal, these areas can provide opportunities for both informal natural play and wildlife. The Conservation Manager, (Landscape), raises no objections indicating that landscaping and integration is considered acceptable. The Planning Ecologist also raises no objections.
- 6.53 It is considered that the application provides adequate and suitable open and recreational space, whilst loss of existing hedgerow is regrettable, (one internal hedgerow and hedgerow in order to create access into the site), hedgerow to be lost is considered to be of low ecological value and with landscape mitigation and biodiversity enhancement as offered and with appropriate conditions attached to any approval notice and with consideration to detail as set out in the draft heads of terms attached to this report, in relationship to recreational/open space and the drainage pond in order that they are designed, integrated and managed in a suitable manner that will be of benefit for all, recreation/biodiversity is considered acceptable.
- 6.54 It is also noted that on ecological issues the Council's Planning Ecologist concurs with the findings of the submitted appraisal and it is considered that the proposal will have no worse than a neutral impact on ecological interests. The development is considered to accord with the provisions of the Development Plan and NPPF guidance in this regard with a condition attached to any approval notice in order to ensure that the ecological recommendations are followed as indicated in the ecological report submitted in support of the application.

### Impact on Existing Infrastructure

- 6.55 Concerns have been raised about the impacts of the development on existing infrastructure such as medical facilities and the concerns as raised about the ability and capacity of the local schools to absorb pupils from the development. The applicants statement of community involvement recognises public concerns about this matter.
- 6.56 The NPPF identifies the importance of ensuring a sufficient choice of community facilities and services to meet local needs. Paragraph 72 refers to local planning authorities taking a proactive, positive and collaborative approach to meeting the requirements in order to ensure that a sufficient choice of school places is available.
- 6.57 Leintwardine has recently had provided a new medical facility and it is considered that 45 additional dwellings is not a sufficient reason for refusal on this matter. The applicants have agreed to financial contributions towards local educational infrastructure as indicated in the draft heads of terms attached to this report. The contribution for this development in relationship to educational requirements equates to £268940.00. As such the applicants have agreed to the planning requirements in relationship to education and whilst the tension is understandable, it is considered that the issues with regards to school capacity is not a sufficient reason to warrant refusal of this application.

### Community Engagement

- 6.58 It is understood that the developer undertook pre-application consultation events, including one-to-one stakeholder meetings and an open exhibition. The statement of community involvement submitted in support of the application makes reference to the Parish Council being first consulted on this proposal in June 2014 and that a public exhibition was held in the village on 12<sup>th</sup> June 2014 and that this event was advertised. Discussions and a presentation was made regarding the merits of the proposed location and the details of the proposed development. The statement of community involvement appears thorough and indicates consideration to feedback received. Further still the applicants have amended their plans since validation of the application further reducing the amount of dwellings proposed from 57 to 45. It is considered that the applicants have complied with the requirements of the NPPF on consulting with the local community prior to submission of a formal application.

### The Proposal is Premature and Contrary to Localism in the Guise of Neighbourhood Planning

- 6.59 Leintwardine Parish Council has designated a neighbourhood plan area, the plan itself is not presently sufficiently far enough advanced to be attributed any weight for the purposes of decision-taking. Whilst acknowledging that schemes such as this appear contrary to the intended aims of localism, the Council cannot reject schemes purely because they are potentially prejudicial to a neighbourhood plan; particularly where the plan is in the early stages of preparation. In the same way that the Council cannot rely on emerging Core Strategy policies, emerging neighbourhood plan proposals cannot in this instance be attributed weight.

## **7. Conclusion**

- 7.1 In accordance with S38 (6) of the Planning and Compulsory Purchase Act 2004, the application should be determined in accordance with the development plan, unless material considerations indicate otherwise.
- 7.2 In the weighing of material considerations regard must be had to the provisions of the NPPF; especially in the context of a shortage of deliverable housing sites. It is acknowledged that the development places reliance upon the presumption in favour of sustainable development as set out at paragraph 14 of the NPPF in the context of a housing land supply deficit, but equally that

the emerging policies of the Core Strategy and Neighbourhood Plan are not sufficiently advanced to attract weight in the decision-making process.

- 7.3 The contribution that the development would make in terms of jobs and associated activity in the construction sector and supporting businesses should also be acknowledged. The raft of S106 contributions are also noted. The ability of an increased population to underpin local services is also recognised.
- 7.4 Officers consider that in the context of existing development within Leintwardine, the principle of the proposal in terms of its layout, landscape impact and density is acceptable. On issues in relationship to the surrounding historic assets and character of the settlement concerned, on balance the development is considered acceptable. It is also acknowledged that many issues of concern have been raised on transportation/public highway access and drainage, however these issues are considered to be addressed satisfactorily with appropriate conditions attached to any approval notice issued as indicated by the respective external and internal consultees on these matters.
- 7.5 When considering the three indivisible dimensions of sustainable development as set out in the NPPF, officers consider that the scheme when considered as a whole is representative of sustainable development and that the presumption in favour of approval is engaged.
- 7.6 Any adverse impacts associated with granting planning permission are not considered to significantly and demonstrably outweigh the benefits and it is recommended that planning permission be granted subject to the completion of a legal undertaking under Section 106 of the Town and Country Planning Act 1990 and planning conditions as referred to below.

## **RECOMMENDATION**

**That subject to the completion of a Section 106 Town & Country Planning Act 1990 obligation agreement in accordance with the Heads of Terms stated in the report, officers named in the Scheme of Delegation to Officers are authorised to grant outline planning permission, subject to the conditions below and any other further conditions considered necessary and an acceptable solution in relationship to 35% affordable housing provision as outlined in this report.**

- 1. A02 Time limit for commencement of reserved matters**
- 2. A03 Time limit for commencement (outline permission)**
- 3. A05 Plans and particulars of reserved matters**
- 4. B03 Amended plans**
- 5. H13 Access, turning area and parking**
- 6. H18 On site roads - submission of details**
- 7. H11 Parking - estate development (more than one house)**
- 8. H27 Parking for site operatives**
- 9. The development hereby permitted shall not commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the drainage details before the development is first brought into use.**



**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 problem and to minimise the risk of pollution and to comply with Policies DR4 and DR7 of the Herefordshire Unitary Development Plan.**

- 10. Details of all proposals for the disposal of foul water and surface water runoff from the development shall be included as part of any reserved matters application for development on site.**

**Reason: In order to ensure a satisfactory means of drainage of the site and to comply with Policy DR4 of the Herefordshire Unitary Development Plan.**

- 11. The recommendations set out in the ecologist's report dated February and March 2014 must be followed unless otherwise agreed in writing by the local planning authority. Prior to commencement of the development, a habitat enhancement plan integrated with the landscape scheme must be submitted to, and be approved in writing by, the local planning authority, and the scheme must be implemented as approved. An appropriately qualified and experienced ecological clerk of works must be appointed (or consultant engaged in that capacity) to oversee the ecological mitigation work.**

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

- 12. G09 Details of Boundary treatments**
- 13. G10 Landscaping scheme**
- 14. G14 Landscape Management plan.**
- 15. G17 Provisions of open space and play areas. (outline permissions).**
- 16. I51 Details of slab levels**
- 17. I16 Restriction of hours during construction**
- 18. I55 Site Waste Management**

#### **INFORMATIVES:**

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

4. **HN04 Private apparatus within highway**
5. **HN28 Highways Design Guide and Specification**
6. **HN13 Protection of visibility splays on private land**
7. **HN05 Works within the highway**
8. **HN02 Public rights of way affected**

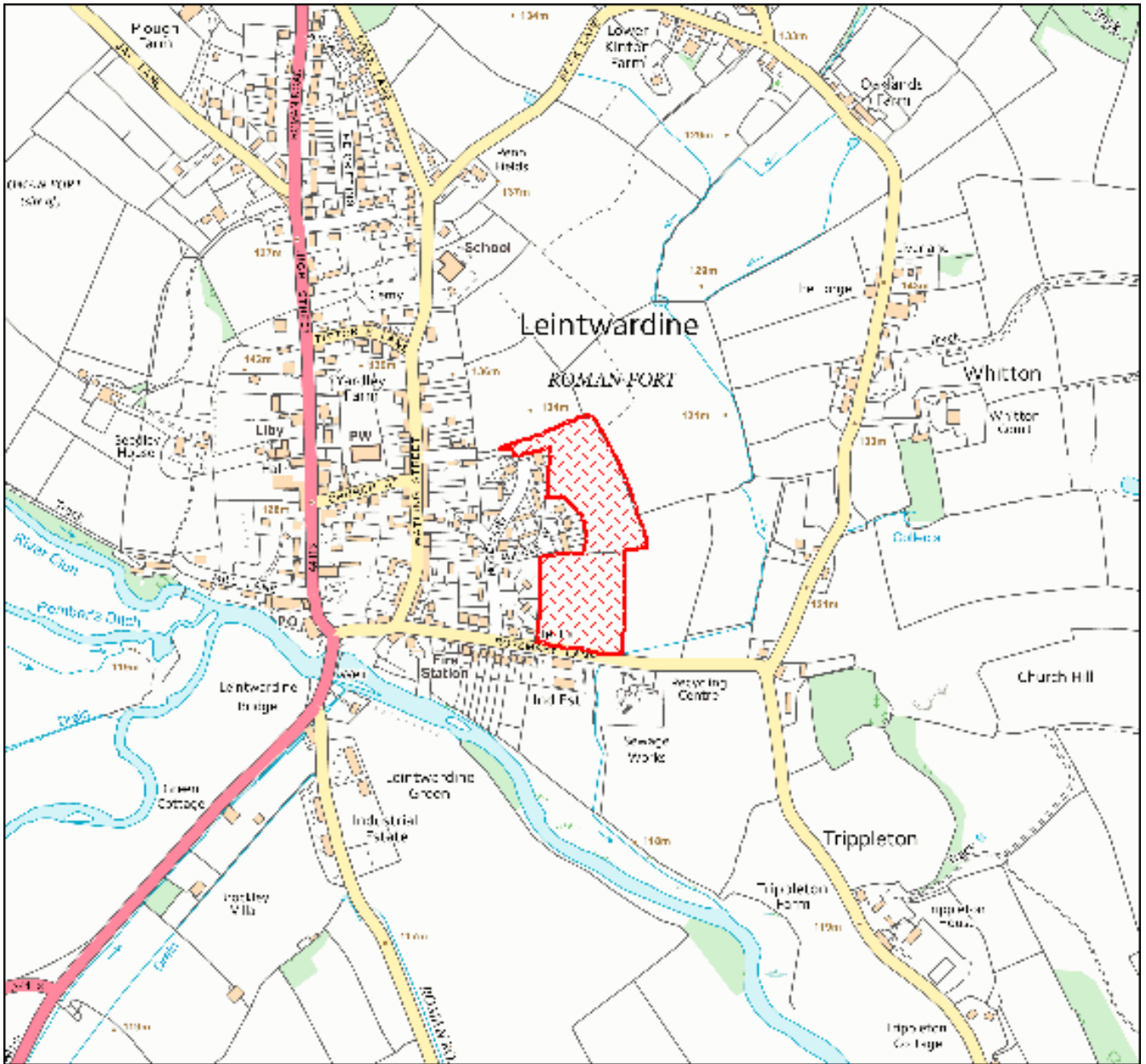
Decision: .....

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:** 142215/O

**SITE ADDRESS :** LAND OFF ROSEMARY LANE, LEINTWARDINE, HEREFORDSHIRE

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**S.106 Agreement Head of Terms**  
**Rosemary Lane, Leintwardine**

**THE FIGURES SET OUT IN THESE HEADS OF TERMS ARE THE FIGURES CURRENTLY BEING DISCUSSED BETWEEN THE APPLICANT AND THE COUNCIL**

<b>Obligation</b>	<b>Detail</b>	<b>Purpose</b>	<b>When</b>
<b>Affordable Housing</b>	Provision of off-site contribution in lieu of 35% on-site provision – amount to be agreed OR Provision of 35% on-site affordable housing	To provide affordable housing on-site or on a more suitable site.	
<b>Sustainable Transport Contribution</b>	£ 2,457 per 2 bed, £ 3,686 per 3 bed, £ 4,915 per 4+ beds	To provide sustainable transport infrastructure to serve the Development	Paid on or before occupation of first general market dwelling *
<b>Community Services Contribution (Libraries)</b>	£ 120 per 1 bed, £ 146 per 2 bed, £ 198 per 3 bed, £ 241 per 4+ beds	To provide enhanced library facilities in Leintwardine / Leominster	Paid on or before occupation of first general market dwelling*
<b>Children and Young People Contribution (Education)</b>	£ 2,845.00 per 2 bed £4,900.00 per 3 bed £8,955.00 per 4+ bed  (NB no contribution for 1 bed units)	To provide enhanced educational infrastructure at: - Leintwardine Primary School (Early Years) - Wigmore Secondary School,  and local education for: -post 16 youth services and - Special Education	Paid on or before occupation of first general market dwelling*

		Needs Schools.	
<b>Public Open Space</b>	On-site provision : <ul style="list-style-type: none"> <li>- POS</li> <li>- attenuation basins</li> </ul>	Provision of onsite POS to be maintained by a management company.	
<b>Waste</b>	£ 120 per dwelling	For waste reduction and recycling in Leominster	Paid on or before occupation of first general market dwelling*
<b>Monitoring Fee</b>	2% of the value of the contribution.		
<b>Legal Fees</b>	The reasonable legal fees of the Council will be paid by the Applicant. A solicitors undertaking will be provided at the outset, upon confirmation of the Council's estimate of their legal charges.		
<b>Repayment</b>	any unspent (or not-committed) contributions are to be repaid to the Applicant (or whomever paid the contribution) 10 years after receipt by the Council. Any interest accrued on the monies whilst they are held by the Council are also to be paid to the Applicant along with any repayment of contributions.		
<b>Timetable</b>	A draft S.106 Agreement is to be in an agreed for my the date of the Committee and for finalising within 4 weeks of receiving a resolution to grant planning permission		

- \* may be pooled with other contributions
- All contributions to be index linked
- please note that contributions are paid on general market dwellings only (not affordable housing units).

LJW/909357/1 (LWD Developments LLP)

DRAFT







<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>21 JANUARY 2015</b>
<b>TITLE OF REPORT:</b>	<p><b>P142356/F - PROPOSED REMOVAL OF CONDITION 4 OF PLANNING PERMISSION DCNC2004/2013/F (CONVERSION OF COTTAGE ANNEXE TO PROVIDE ONE BEDROOM HOLIDAY COTTAGE) TO ALLOW 'FODDER STORE' TO BE USED AS A DWELLING AT FODDER STORE ADJ THE OLDE RECTORY, BOAT LANE, WHITBOURNE, WORCESTER, WR6 5RS</b></p> <p><b>For: Mr &amp; Mrs Poultney per Mr Paul Smith, 41 Bridge Street, Hereford, Herefordshire, HR4 9DG</b></p>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=142356&amp;search=142356">https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=142356&amp;search=142356</a>
<b>Reason Application submitted to Committee – Re-direction</b>	

**Date Received: 31 July 2014**

**Ward: Bringsty**

**Grid Ref: 372477,256995**

**Expiry Date: 25 September 2014**

Local Member: Councillor GR Swinford

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

- 1.1 The Fodder store is physically attached to The Olde Rectory a grade II listed building in Boat Lane, within the Whitbourne Conservation Area. The application seeks removal of condition 4 in order to permit it use as an unrestricted dwelling.

## **2. Policies**

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

The following sections are of particular relevance

Section 12 Conserving and enhancing the historic environment

### **2.2 Herefordshire Unitary Development Plan**

S1	-	Sustainable Development
S2	-	Development Requirements
S7	-	Natural and Historic Heritage
DR2	-	Land Use and Activity
HBA4	-	Setting of Listed Buildings
HBA3	-	Change of Use of Listed Buildings

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

- HBA13 - Re-use of Rural Buildings for Residential Purposes
- H17 - Sub-Dvision of Existing House

### 2.3 Core Strategy

- LD4 - Historic Environment and Heritage Assets

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

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

### 3. **Planning History**

- 3.1 131973/F Replacement of extant planning permission DMNC/101265/F (see below)
- 3.2 DMNC/101265/F - Removal of condition 4 of planning permission DCNC2004/2013/F. To allow use as annex accommodation to The Olde Rectory. Approved 19/7/10, subject to condition that it be used as annex to the Olde Rectory.
- 3.3 DCNC2004/2013/F - Conversion of cottage annexe to provide one bedroom holiday cottage. Approved 29/7/04,subject to holiday use condition( subject of this application).
- 3.4 DCNC/2004/2014/L - Listed building consent for above works, also 29/7/14.

### 4. **Consultation Summary**

#### Statutory Consultees

#### 4.1 Severn Trent

I confirm that Severn Trent Water Limited has NO OBJECTION to the proposal subject to the inclusion of the following condition.

#### **Condition**

The development hereby permitted shall not commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

#### **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 problem and to minimise the risk of pollution.

#### Internal Consultees

#### 4.2 Conservation Manager (Historic Buildings)

It is clear on site and in looking at the historic and currently submitted drawings, that there is a discrepancy between the drawings and works carried out on site. Since The Old Rectory and The Fodder Store are grade II listed there should be no such differences – all changes requiring Listed Building Consent:

The covered lobby at the rear of The Old Rectory has clearly been substantially truncated and the steps up to the retained service door have been removed.

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

The service door was due to be retained in the 2004 conversion drawings and should have remained visible on the inside of the annex. This has not occurred and the wall internally shows no sign of the doorway.

The trellis fencing which delineates the small amenity area is attached to the listed building and therefore needs Listed Building Consent and Planning Permission, neither of which has been requested.

There is still an accessible link between The Old Rectory and the cellar beneath The Fodder Store and this is a locked door. The only other access point to the cellar is the former coal hole which is only visible as a very low opening on the courtyard elevation and would require a rather slim person to gain access. It may be that there is more of an opening than currently visible but it is clear that at present access would be difficult. It is considered that this arrangement, should The Fodder Store become independent, might lead to improved access being requested, however there is no guarantee that permission for such a change would be granted. It would be more appropriate for the cellar to be accessible from The Old Rectory as it historically always has been. On my visit to The Fodder Store it was clear that the first floor bedroom and the main window of the living room look out directly over the south, front garden of The Old Rectory. There are trees and shrubs to partly obscure the view but the glazing is clear. Any proposal to obscure these windows would need to gain LBC and the impact on the appearance of the building would need to be considered.

The rear bathroom window does enable a view over the rear north garden of The Old Rectory but no more so than any adjoining properties.

The Fodder Store has clearly been part of The Old Rectory complex historically but, apart from the windows/overlooking issue, there are relatively few areas where intervention would be necessary to enable independence. Many buildings are subdivided even when they have historically always acted as one.

Overall I have a number of concerns about this particular application. In order to facilitate the independence of the building various works are required which have either been carried out without LBC or would require LBC. Until those items are submitted for assessment then it is difficult to see how the change of use could be supported. It is worth noting that my colleague who submitted previous comments was not aware that any works to the listed building would be required, or had taken place with LBC.

The most that can be said is that in principle a change of use to independent dwelling might be possible subject to the changes involved being acceptable in terms of Listed Building Legislation. It is suggested that the application is resubmitted in conjunction with an LBC application explaining/regularising the works involved.

## **5. Representations**

### **5.1 Whitbourne Parish Council**

We strongly object to this application for the following reasons:

1. The Old Rectory is a Grade II listed building, which, if divided up in this way would be deemed as an inappropriate development impacting upon its historic heritage and the historic fabric should be preserved.
2. The impact of the application on the present occupants of the Rectory - with regard to overlooking both front and rear gardens, increased density - ie, noise, cars, people, etc.

3. This would be providing residential accommodation for a separate family within what should be one residential unit - thus impacting detrimentally upon the occupants of the main dwelling.
4. Lack of amenity for the annex accommodation - as this is essentially ancillary accommodation to The Old Rectory and as such does not have a defined curtilage. This inadequacy renders the unit not capable of being practical or appropriate as a form of accommodation.
5. We consider this application contrary to policy guidance in the Herefordshire UDP and the NPPF. The separation of the property is unauthorised.

5.2 Letters of objection have been received from Mr Wood (the owner of the Old Rectory, adjoining the Fodder store and 7 other Whitbourne residents.

They can be summarised as follows:

1. The basis for the application is flawed as the 2004 permission has already been replaced by the 2011/13 permissions, so there is no condition to remove.
2. The proposal is contrary to policies H17, H18, P7, S7, HBA1 and HBA4.
3. The proposal would result in loss of privacy to the Old Rectory through overlooking of both front and rear gardens.
4. There would be insufficient amenity for the new dwelling as the amenity space, which is unauthorised is too small for an oil tank, laundry drying and refuse and leisure area.
5. The proposal would be detrimental to the integrity of the listed building, the fodder store, a newly created name formed part of the north wing of the Old Rectory.
6. Further work requiring listed building consent would be necessary to facilitate the change, including bricking up of the existing cellar door and creation of a new entrance thereto. (The cellar, which lies below the fodder store is currently accessed via the door in the main house).
7. Either situation is untenable, namely a separate dwelling or holiday let.
8. This part of the historic Conservation Area should be safeguarded.
9. Agree with comments of Parish Council and is contrary to wishes of local community.
10. The implications of the unauthorised works and means of resolution of them should be considered before creating an independent dwelling.

5.3 In support of the application the agent has submitted the following:

1. Removal of external steps:

I am informed by my clients who were engaged in the refurbishment of this building that previous plywood 'boxed' steps did exist at the rear of the building leading up to the old doorway. They were removed when building works were completed as they were no longer required and clearly had no historical significance. The land on which these steps stood are now in the ownership of my clients' neighbour.

2. External door blocked up:

The doorway in question was shown as being retained on the approved plans with the refurbishment of this building. It was blocked up following agreement on site with the Council's Conservation Officer overseeing this scheme and the Building Regulation Inspector during works and was 'signed off' at completion. The blocking up of this doorway was to keep the integrity of the building and it was agreed that it could be insulated and plaster-boarded on the understanding that the original door and frame were retained as can be seen today.

3. External area:

The creation of the amenity area in front of the building did not require listed building consent.

4. Cellar entrance:

You are correct that an application for listed building consent to block up an existing cellar entrance and to create a replacement cellar entrance has not been submitted. The cellar is not only accessible via the Olde Rectory. There exists a coal hatch in front of the building by which access could be achieved if need be. There is an cellar entrance via the Olde Rectory utility room and this doorway is presently locked to prevent access from the neighbouring property.

5. Use of Fodder Store as holiday accommodation:

My clients reiterate that the Fodder Store has not been used as annex living accommodation to The Olde Rectory. Rather, until last December it has been used as holiday accommodation together with the other buildings in this holiday unit complex. In support of this I attach copies of the income derived from the holiday use of the Fodder Store for the years ending 2010, 2012 and 2013. I would be grateful if you could handle this information on a confidential basis.

On a general note, I question the materiality of these past works to the Fodder Store to the planning application under consideration. The previous removal of apparently unattractive external steps and blocking up of a doorway (the latter being undertaken under the supervision of Council officers) are not related to the issue of the residential use of the dwelling which is not dependent upon these works having been undertaken. Indeed, with the passage of time, my clients would not be able to reinstate the external steps unilaterally as the land on which they once stood is no longer in their ownership.

Similarly, access to the cellar is not a pre-requisite of the proposed use of the Fodder Store as a dwelling as opposed to holiday accommodation independent of The Olde Rectory. As I have explained there is another means into the cellar should the owners of the Fodder Store wish to gain access to the cellar for maintenance purposes. It is acknowledged that listed building consent would be required were owners of the Fodder Store wish to create an internal cellar entrance.

With regard to the listed building issues, I remain firmly of the view that works undertaken to this building relating to external plywood steps, a doorway partitioned over only from inside the building and the cellar issue are not material to the application under consideration. These works, (some of which were authorised on site during construction works) are not a pre-requisite of the proposed use of this building as a dwelling. Its use as dwelling (or permanent holiday accommodation for that matter) is not determined by whether or not the steps are reinstated, the doorway reinstated from the inside and the cellar is used.

In my view it would be wholly wrong of your Council to take into account these works to the listed building in determining the planning application. Any decision taking these works into account would be flawed.

Confidential details have also been submitted by the applicant regarding the letting of the Fodder store for holiday purposes.

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

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

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

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

- 6.1 The applicants maintain that the annex use was not implemented, and that the existing use remains as holiday accommodation. I have no evidence to the contrary, although the adjoining owner considers otherwise.
- 6.2 The proposal, in seeking to remove the holiday occupancy condition would permit the Fodder Store to be used as a separate dwelling.
- 6.3 The Conservation Manager advises that unauthorised works have been carried out to the Fodder Store including the blocking of an internal door, removal of external steps and covered area. The resolution of these matters however does not significantly impact upon the use of the building as a dwelling and need not be an impediment to the determination of this application. Notwithstanding the comments about integrity, this building and the main house are already in separate ownership.
- 6.4 The main consideration is whether the use as a dwelling compared to holiday use creates sufficient additional amenity issues to justify refusal. Policy HBA3 sets out the criterion for this consideration.

The change of use of part or the whole of a listed building will be permitted where it can be demonstrated that:

1. The building is structurally capable of accommodating the proposed use without requiring substantial rebuilding;
  2. The proposed use is compatible with the preservation of the existing building, its features and setting and where relevant those of any immediately adjacent listed buildings;
  3. The proposed use complements any other existing uses of the building which are to be retained;
  4. The proposal assists the retention and beneficial use of a historic building; and
  5. In relation to reuse and adaptation of traditional rural buildings, the use complies with policies HBA12 and HBA13.
- 6.5 Whilst the proposal would result in a small dwelling with limited amenity space of its own it is not considered that the occupation for this purpose would result in an unacceptable level of privacy and amenity either for its own purposes or those of the adjoining property.
- 6.6 It is therefore considered that the proposal complies with relevant policies, in particular, HBA3 and the principles of the NPPF, and is recommended for approval accordingly.

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

**RECOMMENDATION**

That planning permission be granted subject to the following condition:

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

**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. **The applicant is advised that there are currently unauthorised works to the listed building which require amelioration. To this end you are strongly advised the contact the Historic Buildings Officer at the Council to put these matters in hand.**

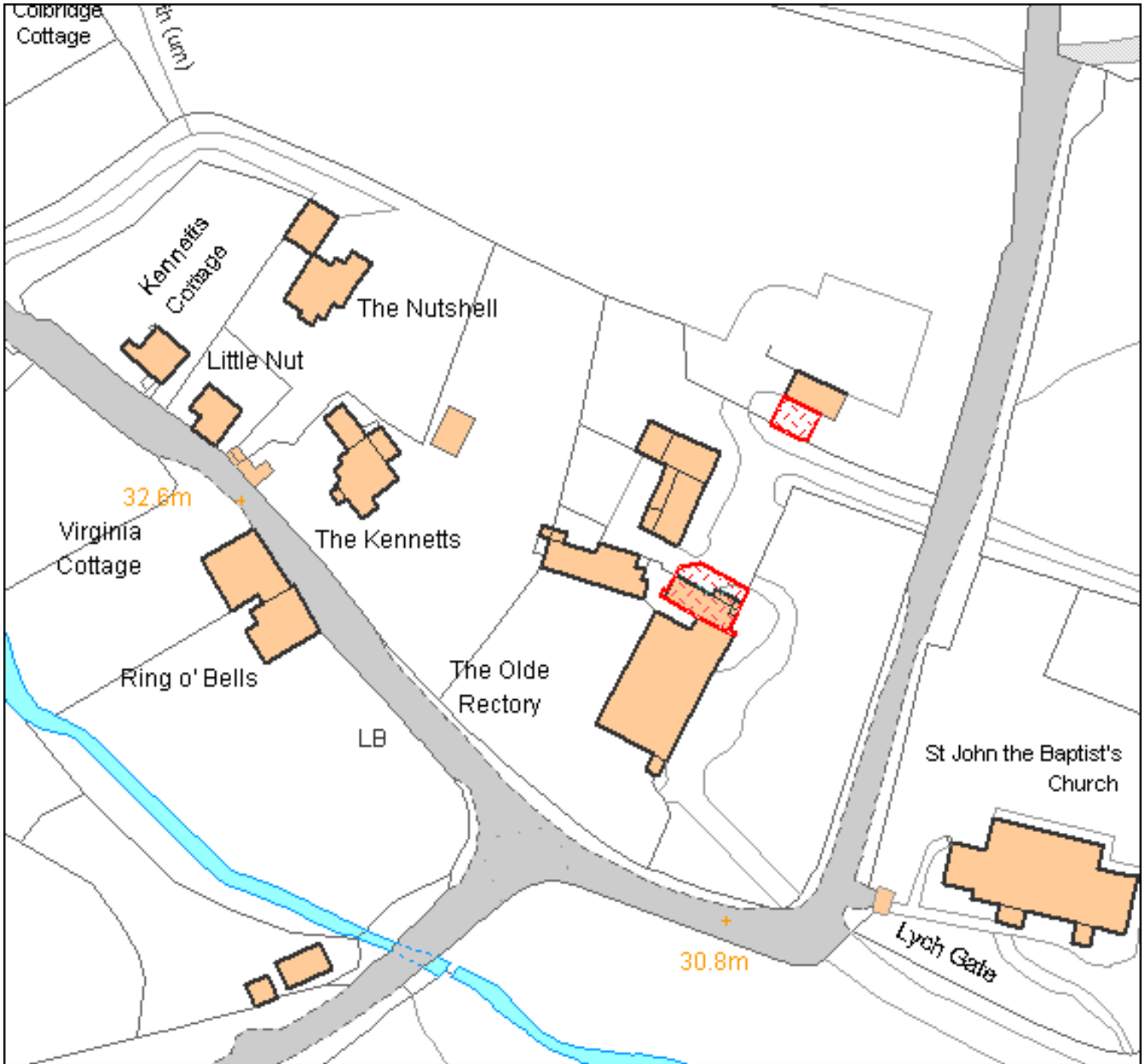
Decision: .....

Notes: .....

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**Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** 142356/F

**SITE ADDRESS :** FODDER STORE ADJ THE OLD RECTORY, BOAT LANE, WHITBOURNE, WORCESTER, HEREFORDSHIRE, WR6 5RS

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