

# AGENDA

## Planning Committee

Date: **Wednesday 18 May 2016**

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Time: **10.00 am**

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Place: **Council Chamber, 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**

Tel: 01432 260239

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

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If you would like help to understand this document, or would like it in another format, 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 J Hardwick**

Councillor BA Baker

Councillor CR Butler

Councillor PJ Edwards

Councillor DW Greenow

Councillor KS Guthrie

Councillor EL Holton

Councillor JA Hyde

Councillor TM James

Councillor JLV Kenyon

Councillor FM Norman

Councillor AJW Powers

Councillor A Seldon

Councillor WC Skelton

Councillor EJ Swinglehurst

Councillor LC Tawn

## AGENDA

		Pages
1.	<p><b>APOLOGIES FOR ABSENCE</b></p> <p>To receive apologies for absence.</p>	
2.	<p><b>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>	
3.	<p><b>DECLARATIONS OF INTEREST</b></p> <p>To receive any declarations of interest by Members in respect of items on the Agenda.</p>	
4.	<p><b>MINUTES</b></p> <p>To approve and sign the Minutes of the meeting held on 26 April 2016.</p>	7 - 30
5.	<p><b>CHAIRMAN'S ANNOUNCEMENTS</b></p> <p>To receive any announcements from the Chairman.</p>	
6.	<p><b>APPEALS</b></p> <p>To be noted.</p>	31 - 34
7.	<p><b>151072 - LAND OFF BELMONT ROAD, HEREFORD, HEREFORDSHIRE, HR2 7JE</b></p> <p>Proposed development of a petrol filling station, ancillary retail kiosk with associated infrastructure.</p>	35 - 56
8.	<p><b>160812 - LAND AT WEST WINDS, CHOLSTREY ROAD, LEOMINSTER, HEREFORDSHIRE, HR6 8RT</b></p> <p>Proposed 23 dwellings with garages and car spaces.</p>	57 - 72
9.	<p><b>DATE OF NEXT MEETING</b></p> <p>Date of next site inspection – 10am – 6 June 2016</p> <p>Date of next meeting – 2pm – 6 June 2016</p>	



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HEREFORDSHIRE COUNCIL

**MINUTES of the meeting of Planning Committee held at Council Chamber, The Shire Hall, St Peter's Square, Hereford, HR1 2HX on Tuesday 26 April 2016 at 10.00 am**

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

**Councillors:** BA Baker, CR Butler, PJ Edwards, DW Greenow, KS Guthrie, EL Holton, JA Hyde, TM James, JLV Kenyon, RI Matthews, FM Norman, AJW Powers, A Seldon, WC Skelton and EJ Swinglehurst

**In attendance:** Councillors WLS Bowen and PM Morgan

**178. APOLOGIES FOR ABSENCE**

Apologies were received from Councillor J Hardwick.

**179. NAMED SUBSTITUTES**

Councillor RI Matthews substituted for Councillor J Hardwick.

**180. DECLARATIONS OF INTEREST**

There were no declarations of interest.

**181. MINUTES**

**RESOLVED:** That the Minutes of the meeting held on 6 April 2016 be approved as a correct record and signed by the Chairman.

**182. CHAIRMAN'S ANNOUNCEMENTS**

The Chairman announced that a seminar on the 5 yr housing land supply had been arranged for members of the Committee, but open to all Councillors, for the morning of 10 May.

He also reminded members of the arrangements for an additional meeting of the Committee on the afternoon of Monday 6 June 2016 to consider the southern link road application, noting that this would be preceded by a site visit in the morning.

**183. APPEALS**

The Lead Development Manager referred to the appeal decision in relation to application 143116 – land to the south of Leadon Way Ledbury where the Inspector had concluded that the Council did not have the required 5 yr housing land supply.

He provided a statement on the current position on the housing land supply and how the Core Strategy Policies should be applied in the circumstances.

It was agreed that the statement would be circulated to all Members.

The Planning Committee noted the report.

**184. 160613 - FORMER WHITECROSS SCHOOL, BAGGALLY STREET, HEREFORD**

*(Proposed development of 69 homes, landscaping, public open space, new vehicle access and all associated works.)*

*(This application was considered after agenda item 8 – application 152042.)*

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

In accordance with the Council's Constitution, Councillor TM James acting on behalf of the local ward member, Councillor PA Andrews, spoke on the application. He commented that there were two principal concerns about the proposal: traffic management and the effect on residents and the possibility that the development would lead to development of a playing field next to the application site.

In the Committee's discussion of the application the following principal points were made:

- Particular concern was expressed about the suitability of the access off Baggally Street, whether the emergency services would be impeded and whether alternative options had been explored. It was suggested a one way system should also be considered.

The Principal Planning Officer commented that other options had been investigated over a period of some 10 years. However, constraints presented by land ownerships and covenants had meant that it had continued to be concluded that an access off Baggally Street was the only realistic and viable option.

- A Member suggested that consideration should be given to using compulsory purchase powers to secure a satisfactory access.
- An informal arrangement seemed to have developed whereby people only parked on one side of Baggally Street. It was suggested that a more formal arrangement should be considered to ensure this arrangement was maintained to allow vehicles safe passage.
- There was a question as to whether the development would generate more traffic than the former school site had done.
- The proposal represented appropriate development of a brownfield site. Local residents supported development but did not support the proposed access.
- Note should be taken of the opportunity identified by West Mercia Police to design out crime as part of the scheme.
- The re-opening of the bridge was welcome as it would improve cycle and pedestrian links within the City and have environmental and health benefits.
- A Member reiterated his concern that yet another development was proposing that the maintenance of any on-site Public Open Space (POS) would be undertaken by a management company. This did not provide sufficient assurance.
- The provision in the S106 agreement provided for funding of the SUDS for 60 years but was silent as to how maintenance would be financed after that time.
- There was no provision for ongoing maintenance of the on-site play area.
- The improvements associated with the Yazor Brook were to be welcomed.



- A proposal was made that consideration of the application should be deferred to allow further consideration to be given to an alternative access.

The Transportation Manager commented that the width of Baggally Street at 5.5m was suitable for the development. A residents parking scheme and a one way system could be considered. However, he would wish to assess the need for that after construction of the development but such measures would need to be delivered as part of the development. He noted that although the scheme provided for 69 garages and one cycle shed the garages were of sufficient size to accommodate storage and the use of the garages as cycle parking. The S106 agreement would support improvements to the cycle network and a crossing North West of the site which would assist in the connectivity of the development.

The Lead Development Manager commented that the delay in developing the site was not due to matters relating to the access but to the resolution of flooding issues and the economic downturn. The Committee had previously approved a development of 65 dwellings on the site but this had not proceeded because that developer had been unable to find a solution to the flooding. The new developer had identified a satisfactory solution.

The access was suitable and as a former school site the site had been accessed by school buses.

A deferral would not offer any benefit. On 1 June the applicant could appeal for non-determination and it would be difficult to defend an appeal. A raft of S106 contributions had been agreed including transportation, education and affordable housing.

Councillor James, on behalf of the local ward member, was given the opportunity to close the debate. He reiterated his concern about the possibility that the development would lead to development of a playing field next to the application site.

A motion that consideration of the application be deferred was lost.

**RESOLVED: That subject to the completion of a Section 111 agreement under the Local Government Act 1972 and Section 1 of the Localism Act 2011 requiring the applicant to complete, under section 106 of the Town & Country Planning Act 1990 an obligation agreement in accordance with the Heads of Terms stated in the report, officers named in the Scheme of Delegation to Officers are authorised to grant planning permission, subject to the conditions below and any other further conditions considered necessary.**

1. **A01 Time limit for commencement (full permission)**
2. **B01 Development in accordance with the approved plans**
3. **C01 Samples of external materials**
4. **E01 Site investigation - archaeology**
5. **G10 Landscaping scheme**
6. **G11 Landscaping scheme - implementation**
7. **G04 Protection of trees/hedgerows that are to be retained**
8. **G18 Provision of play area/amenity area**
9. **H18 On site roads - submission of details**
10. **H11 Parking - estate development (more than one house)**
11. **H20 Road completion in 2 years**

12. No development shall commence until a drainage scheme for the site has been submitted to and approved in writing by the local planning authority. The scheme shall provide for the disposal of foul, surface and land water, and include an assessment of the potential to dispose of surface and land water by sustainable means. Thereafter the scheme shall be implemented in accordance with the approved details prior to the occupation of the development and no further foul water, surface water and land drainage shall be allowed to connect directly or indirectly with the public sewerage system.

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment in accordance with the requirements of policy SD4 of the Herefordshire local plan - Core Strategy

13. The proposed development site is crossed by a public sewer with the approximate position being marked on the attached Statutory Public Sewer Record. The position shall be accurately located marked out on site before works commence and no operational development shall be carried out within 6 metres either side of the centreline of the public sewer.

Reason: To protect the integrity of the public sewer and avoid damage thereto protect the health and safety of existing residents and ensure no pollution of or detriment to the environment

14. The recommendations set out in Section 6.3.10 and 6.3.11 of the ecologist's preliminary report dated January 2013 should be followed unless otherwise agreed in writing by the local planning authority. An appropriately qualified and experienced ecological clerk of works should be appointed (or consultant engaged in that capacity) to carry out further survey work to establish the presence or otherwise of reptiles and protected species of mammal, and to oversee the ecological mitigation work.

Reasons: To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (with amendments and as supplemented by the Countryside and Rights of Way Act 2000), the Natural Environment and Rural Communities Act 2006 and the Conservation of Habitats and Species Regulations 2010 (and 2012 amendment).

To comply Herefordshire Council's Policies LD2 Biodiversity and Geodiversity, LD3 Green Infrastructure of the Herefordshire Local Plan Core Strategy 2013 – 2031 and to meet the requirements of the National Planning Policy Framework (NPPF).

15. Prior to commencement of development, a Construction Environmental Management Plan shall be submitted for approval in writing by the local planning authority and shall include timing of the works, details of storage of materials and measures to minimise the extent of dust, odour, noise, vibration and potential siltation/run-off arising from and construction process. The Plan shall be implemented as approved.

Reasons: To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (with amendments and as supplemented by the Countryside and Rights of Way Act 2000), the Natural Environment and Rural Communities Act 2006 and the Conservation of Habitats and Species Regulations 2010 (and 2012 amendment).

16. I16 Construction Management Plan to include:

- Hours of working during construction
- site compound location

- parking for site operatives
  - parking for visitors
  - turning area / parking area for delivery lorries
  - Hours for deliveries
  - Delivery management strategy
  - details of considerate constructors (contact details for local residents)
  - routing of delivery vehicles during consultation phase
17. I51 Details of slab levels
18. B07 Section 106 Agreement - as per attached heads of terms
19. Finished floor levels shall be set no lower than 600mm above the undefended 1% plus climate change flood level shown in Appendix C (Modelled Watercourse Table) and Drawing Number 3583-15-02-503/P1 (Appendix E) unless otherwise agreed in writing by the LPA.
- Reason: To protect the proposed dwellings from flood risk for the lifetime of the development in accordance with the requirements of policy SD3 of the Herefordshire Local Plan - Core Strategy and guidance contained within the National Planning Policy Framework.
20. Flood storage compensation, shall be carried out, in accordance with the details submitted, including Section 7 of the FRA dated February 2016, including Drawing Numbers 3583-15-02-500/P2 and 3583-15-02- 503/P1 (Appendix E) unless otherwise agreed in writing by the LPA, in consultation with the Environment Agency.
- Reason: To minimise flood risk and enhance the flood regime of the local area having regard to the requirements of policy SD3 of the Herefordshire Local Plan - Core Strategy and guidance contained within the National Planning Policy Framework.
21. There must be no new buildings, structures (including gates, walls and fences) or raised ground levels within the flood storage compensation area highlighted in blue on Drawing Numbers 3583-15-02-500/P2 and 3583-15-02-503/P1 (Appendix E).
- Reason: To ensure the flood storage area works efficiently over the lifetime of the development having regard to the requirements of policy SD3 of the Herefordshire Local Plan - Core Strategy and guidance contained within the National Planning Policy Framework.
22. A maintenance scheme must be in place for the watercourse, flood mitigation area and gabion retaining wall.
- Reason: To ensure the flood storage area continues to operate effectively over the lifetime of the development having regard to the requirements of policy SD3 of the Herefordshire Local Plan - Core Strategy and guidance contained within the National Planning Policy Framework.
23. M17 Water Efficiency - Residential
24. H29 Secure Covered cycle parking provision
25. F08 – No conversion to garage to habitable accommodation

## **INFORMATIVES:**

1. **HN10 No drainage to discharge to highway**  
Drainage arrangements shall be provided to ensure that surface water from the driveway and/or vehicular turning area does not discharge onto the public highway. No drainage or effluent from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway.
2. **HN08 Section 38 Agreement & Drainage details**
3. **HN28 Highways Design Guide and Specification**
4. **HN05 Works within the highway**
5. **HN01 Mud on highway**
6. **N11A Wildlife and Countryside Act 1981 (as amended) - Birds**
7. **N11C General**
8. **W01 Welsh Water Connection to PSS**
9. **N14 Party Wall Act 1996**
10. **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.**

**185. 152042 - LAND NORTH OF WHITESTONE BUSINESS PARK, WHITESTONE, HEREFORDSHIRE, HR1 3SE**

*(Site for proposed extra care development comprising of up to 80 passivhaus designed one, two and three bed apartments and complementary indoor and outdoor facilities, including swimming pool, gym, sauna, cafe, hair salon, medical and treatment rooms, allotments, putting greens and petanque pitch with associated landscaping, at land north of Whitestone business park.)*

*(This application was considered first on the agenda ahead of agenda item 7 – application 160613 which then followed.)*

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

In accordance with the criteria for public speaking, Mr R Pryce, the applicant's agent, spoke in support of the application.

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

He commented that the applicant had listened to comments made in response to the application including those of the Parish Council and modified the application to offer an accessible much needed extra care facility. He invited the Committee to approve the application.

In the Committee's discussion of the application the following principal points were made:

- The Parish Council had expressed a concern that the development would be divorced from Withington village. It was to be hoped that anything that could be done to integrate the development with the village, for example the sharing of social and leisure facilities within the development, would enhance the project.
- There was support for the provision of extra care accommodation, the fact that it was a Passivhaus development and the benefits to road safety as a result of the provision of a crossing of the A4103.
- The developer had been responsive to comments from the local community.
- It was to be hoped that planting could help to decrease the impact of any noise from the nearby industrial estate and enhance the development's appeal.
- The benefits of the scheme outweighed any concerns.

In response to questions about the development's sustainability and long term management the Principal Planning Officer commented that this had been considered. Market demand and costs dictated that the scheme was relatively high density and consisted of apartments. The Section 106 agreement would govern occupancy of the units for extra care use.

The local ward member was given the opportunity to close the debate. He had no additional comments.

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

1. **A02 Time limit for submission of reserved matters (outline permission)**
2. **A03 Time limit for commencement (outline permission)**
3. **A04 Approval of reserved matters**
4. **H03 Visibility splays**
5. **H04 Visibility over frontage - 2m from the C1130 to east as per drawing**
6. **H06 Vehicular access construction**
7. **H09 Driveway gradient - 1 in 20**
8. **H17 Junction improvement/off site works**
9. **H21 Wheel washing**
10. **H27 Parking for site operatives**
11. **H30 Travel plans**
12. **Height of development – no more than 3 storeys**
13. **Noise condition**
14. **C01 Samples of external materials**

15. Tree protection
16. G04 Protection of trees/hedgerows that are to be retained
17. G09 Details of Boundary treatments
18. G10 Landscaping scheme
19. Off site highway works
20. Foul water and surface water discharges shall be drained separately from the site.

Reason: To protect the integrity of the public sewerage system.

21. No surface water shall be allowed to connect, either directly or indirectly, to the public sewerage system unless otherwise approved in writing by the Local Planning Authority.

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no detriment to the environment.

22. Land drainage run-off shall not be permitted to discharge, either directly or indirectly, into the public sewerage system.

Reason: To prevent hydraulic overload of the public sewerage system and pollution of the environment.

23. The recommendations set out in the ecologist's report from Ecology services dated July 2015 should be followed unless otherwise agreed in writing by the local planning authority. Prior to commencement of the development, a detailed habitat enhancement scheme integrated with the landscape scheme should be submitted to and be approved in writing by the local planning authority, and the scheme shall be implemented as approved.

Reasons: To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010 and Policies LD1, LD2 and LD3 of the Herefordshire Local Plan – Core Strategy.

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

- 24 Land contamination

#### **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. **HN01 Mud on highway**
3. **HN02 Public rights of way affected**
4. **HN04 Private apparatus within highway**
5. **HN05 Works within the highway**
6. **HN07 Section 278 Agreement**
7. **HN10 No drainage to discharge to highway**
8. **HN25 Travel Plans**
9. **HN24 Drainage other than via highway system**
10. **N02 Section 106 Obligation**

*(The meeting adjourned between 11.35 and 11.45.)*

**186. 160530 - LAND AT CROSS PLACE, ACTON GREEN, ACTON BEAUCHAMP, HEREFORDSHIRE.**

*(Proposed dwelling.)*

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

In accordance with the criteria for public speaking, Mr F Lowden, of Acton Beauchamp Parish Council, spoke in support of the Scheme. Mr R Oliver, the applicant, also spoke in support.

In accordance with the Council's Constitution, the local ward member, Councillor PM Morgan spoke on the application.

She made the following principal comments:

- The application was for a modest house and could be considered as an infill development.
- A previous application for development on the site had been approved by Malvern Hills District Council.
- There were no objections and a considerable number of letters of support given the size of the village.
- The proposal represented sustainable development and was an example of people seeking self-reliantly to provide for themselves in older age.

In the Committee's discussion of the application the following principal points were made:

- It was to be regretted that a policy had not been included in the Core Strategy that took account of the growing need in the County for accommodation for older people that enabled relatives to provide support.

- The application was contrary to policies RA3 and H2 and represented development in the open countryside.
- The proposal did represent sustainable development.
- There had been no discussions about whether the house could be preserved as an affordable dwelling or whether an extension to the existing house was a better way of achieving the same objective.
- Whatever sympathy there may be for the application the Committee was obliged to apply the Council's adopted policies, with which the application did not comply.

The Lead Development Manager commented that there were no material planning grounds on which to support the application. The development was an open market property in the open countryside contrary to policy. However, it was open to the Committee to take a view that it represented sustainable development.

The local ward member was given the opportunity to close the debate. She reiterated that it was a modest infill development which met a social need.

**RESOLVED: That officers named in the Scheme of Delegation to officers be authorised to grant planning permission subject to any conditions considered necessary.**

**187. 152204 - LAND OPPOSITE ORLETON SCHOOL, KINGS ROAD, ORLETON, HEREFORDSHIRE**

*(Proposed outline application with some matters reserved for 39 no. Dwellings, garages, roads, school nature area, off road school parking and allotments.)*

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

In accordance with the criteria for public speaking, Dr R Jack, of Orleton Parish Council spoke in opposition the Scheme. Mrs A Turtle, a local resident, spoke in objection.

In accordance with the Council's Constitution, the local ward member, Councillor WLS Bowen, spoke on the application.

He made the following principal comments:

- The scale of the development was large in the local context and did not represent organic growth.
- The site did have flooding problems and had been underwater all winter. Roads near the site were also subject to flooding.
- Flooding led to raw sewage being discharged into Orleton Brook. The development would increase the strain on a sewerage system that was already overloaded.
- The response from Severn Trent included in the Committee update suggested Severn Trent had no record of residents experiencing sewerage difficulties. However, residents had been complaining for years about the problems they had. There was little confidence locally in Severn Trent. Severn Trent should be required to make the necessary improvements in advance of any development.
- A flood alleviation scheme should also be in place before any development.
- The access road was very busy and provision of a safe crossing was essential.
- The main Orleton play area was at the other end of the village.



- The proposed allotments and nature area were not required.
- There was the potential for some development on the site, the key was how to achieve that satisfactorily.
- Consideration of the application should be deferred until all the issues had been addressed.

In the Committee's discussion of the application the following principal points were made:

- In the Committee update the officer comments stated that planning authorities would only refuse planning applications on the basis of inadequate sewerage infrastructure where it could be demonstrated that there was environmental harm as a result of the development taking place. Some Members suggested that whilst there may be no significant effect on the River Wye SAC there would be an adverse effect on the River Teme catchment area, which was itself a triple SSI, if sewerage and flooding improvements were not made.
- There was concern that the scale of the development might overwhelm the village and it was asked whether phasing of the development could be considered. The Lead Development Manager commented that this would not be appropriate in the case of such a small scheme. Market demand would dictate the pace of development.
- There was general support for the view that sewerage and flooding issues needed to be resolved as a prerequisite in advance of any development. It was noted that the Committee had been recommended to refuse a recent application at Clehonger until Welsh Water had made the necessary infrastructure improvements. The Lead Development Manager commented that these issues would be required to be addressed at the reserved matters stage.
- It was requested that there should be a 20mph speed limit on the road passing the school.
- It was suggested that the slab levels should be checked to ensure they were appropriate.
- It was also suggested that the development should be of lower density until all the issues had been addressed.
- The possibility of a wet drainage system should be investigated.

The Lead Development Manager commented that Severn Trent had stated that the sewerage system for foul flows had ample capacity to accommodate the requirements of 39 additional dwellings. The lead in time for such a development would be 2-3 years allowing time to resolve the flooding and sewerage issues. The Scheme provided affordable housing. The allotments would be accessible by foot, unlike those currently available to residents. The provision of a safe crossing could be added to the Section 106 agreement along with the provision of a gateway feature for traffic calming. A 20 mph speed limit on the road by the school could also be provided. There were concerns about the development but these could be addressed at the reserved matters stage. It was the practice to seek financial contributions at an early stage where possible which could for instance provide the proposed car park at the outset of works.

The local ward member was given the opportunity to close the debate. He reiterated the importance of Severn Trent making the necessary improvements before development took place. He also requested that he be consulted on the conditions for the development.

**RESOLVED: That subject to the completion of a Section 106 Town & Country Planning Act 1990 obligation agreement in accordance with the Heads of Terms**

stated in the report and including a gateway feature, 20mph speed limit on the road by the school and early provision of the proposed car park, officers named in the Scheme of Delegation to Officers are authorised, after consultation with the Chairman and local ward member, to grant outline planning permission, subject to the conditions below and any other further conditions considered necessary:

1. Details of the appearance, landscaping and scale (hereinafter called ‘the reserved matters’) shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason: Required to be imposed by Section 92 of the Town and Country Planning Act 1990.

2. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of two years from the date of this permission.

Reason: Required to be imposed by Section 92 of the Town and Country Planning Act 1990.

3. The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of the approval of the last reserved matters to be approved, whichever is the later.

Reason: Required to be imposed by Section 92 of the Town and Country Planning Act 1990.

4. Development, including works of site clearance, shall not begin until a Habitat Enhancement Plan, including a timetable for implementation, based on the recommendations set out at Section 4 of the Ecological Appraisal submitted with the planning application and integrated with the landscaping scheme to be submitted pursuant to condition 1 above, has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved Habitat Enhancement Plan.

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 Policy LD2 of the Herefordshire Local Plan – Core Strategy, and to comply with Policy LD2 in relation to Nature Conservation and Biodiversity and to meet the requirements of the National Planning Policy Framework and the NERC Act 2006.

5. Prior to the commencement of development , including any works of site clearance or ground preparation, an Arboricultural Method Statement specifying the measures to be put in place during the construction period, for the protection of those trees and hedgerows to be retained, shall be submitted to and approved in writing by the local planning authority. The Method Statement shall be prepared in accordance with the principles set out in BS 5837:2012 – Trees in relation to design, demolition and construction: Recommendations. Development shall be carried out in accordance with approved Method Statement.

**Reason: To safeguard the amenity of the area and to ensure that the development conforms to Policies SD1, LD1 and LD3 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.**

- 6. No development, including any works of site clearance, shall commence during the bird nesting season (1 March – 31 August inclusive) unless it has been demonstrated through the submission of a method statement that shall previously have been submitted to and approved in writing by the local planning authority, that nesting birds can be adequately protected. Development shall be carried out only in accordance with the approved details which may include, but are not confined to, the timing of work, pre-work checks, avoidance of nesting areas, and protection zones around nesting areas.**

**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 Policy LD2 of the Herefordshire Local Plan – Core Strategy, and to comply with Policy LD2 in relation to Nature Conservation and Biodiversity and to meet the requirements of the National Planning Policy Framework and the NERC Act 2006.**

- 7. The landscaping details to be submitted pursuant to condition 1 above shall include, but are not confined to, the following:**

- plans at a scale of 1:200 or 1:500 showing the layout of proposed tree, hedge and shrub planting and grass areas;**
- a written specification clearly describing the species, sizes, densities and planting numbers and giving details of cultivation and other operations associated with plant and grass establishment;**
- proposed finished levels and contours;**
- the position, design and materials of all site enclosure and boundary treatments between and around dwellings, around the boundaries of the site as a whole and around areas of open space;**
- hard surfacing materials;**
- minor structures (eg play equipment, street furniture, refuse storage areas, signage etc);**
- a timetable for implementation;**
- a scheme for the ongoing management and maintenance of all landscaped areas, other than private domestic gardens, including the nature area and allotments, including long term design objectives, management responsibilities and maintenance schedules.**

**Reason: In order to maintain the visual amenities of the area and to conform with Policy LD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.**

- 8. Prior to commencement of development details of the proposed slab levels of the dwellings hereby approved in relation to a datum point outside the development site, shall be submitted to and approved by the local planning authority. Development shall be carried out in accordance with the approved details.**

**Reason: To protect the development from flooding and to comply with Policy SD3 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.**

9. Development shall not begin in relation to the provision of road and highway drainage infrastructure until the engineering details and specification of the proposed roads and highway drains have been submitted to and approved in writing by the Local Planning Authority. No dwelling may be occupied until the road and highway drain serving the dwelling has been completed.

Reason: To ensure an adequate and acceptable means of access is available before any dwelling is occupied and to conform with the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

10. Prior to the first occupation of any of the dwellings hereby approved a scheme for the provision of covered and secure cycle parking within the curtilage of each dwelling shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details. The cycle parking shall be installed and made available for use prior to occupation of the dwelling to which it relates and shall be retained for the purpose of cycle parking in perpetuity.

Reason: To ensure that there is adequate provision for secure cycle accommodation within the application site, encouraging alternative modes of transport in accordance with both local and national planning policy and to conform to the requirements of Policy MT1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

11. No development shall take place, including works of site clearance, until details of a sustainable surface water drainage scheme, has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details and timetable. The scheme to be submitted shall:

- provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
- include a timetable for implementation of the scheme in relation to each phase of the development; and,
- provide a management and maintenance plan for the scheme, for the lifetime of the development, which shall include the arrangements for adoption of the scheme by any public authority or statutory undertaker, and any other arrangements to secure the operation of the scheme throughout its lifetime.

Reason: To ensure that effective surface water drainage facilities are provided for the proposed development and to comply with Policies SD3 and SD4 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

12. Prior to the commencement of development, details of the car park shown on the approved plan shall be submitted to and approved in writing by the

local planning authority and capable of use and shall be constructed and capable of use prior to the first occupation of any of the dwellings hereby approved.

Reason: To ensure that highway improvements intended to mitigate the impacts of the development are available prior to its first occupation and to conform to the requirements of Policy MT1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

**INFORMATIVES:**

1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
2. HN10 No drainage to discharge to highway
3. HN08 Section 38 Agreement & Drainage details
4. HN07 Section 278 Agreement
5. HN04 Private apparatus within highway
6. HN01 Mud on highway
7. HN24 Drainage other than via highway system
8. HN05 Works within the highway
9. HN28 Highway Design Guide and Specification

**188. DATE OF NEXT MEETING**

The Planning Committee noted the date of the next meeting.

**Appendix 1 - Schedule of Updates**

The meeting ended at 1.15 pm

**CHAIRMAN**



**PLANNING COMMITTEE**

**Date: 26 April 2016**

**Schedule of Committee Updates/Additional Representations**

**Note: The following schedule represents a summary of the additional representations received following the publication of the agenda and received up to midday on the day before the Committee meeting where they raise new and relevant material planning considerations.**

## SCHEDULE OF COMMITTEE UPDATES

**160613 - PROPOSED DEVELOPMENT OF 69 HOMES, LANDSCAPING, PUBLIC OPEN SPACE, NEW VEHICLE ACCESS AND ALL ASSOCIATED WORKS AT FORMER WHITECROSS SCHOOL, BAGGALLAY STREET, HEREFORD, HEREFORDSHIRE**

**For: The Owner and/or Occupier per Mr Ben Stephenson, Greyfriars House, Greyfriars Road, Cardiff, CF10 3AL**

### ADDITIONAL REPRESENTATIONS

A total of 31 letters of representation have been received, some of mixed opinion. The additional letters received, reiterate the issues raised in the report and the following points are also noted:

- Should be retained as a community facility or use for the wider residential area
- Traffic trying to leave the three streets (Baggallay, Meyrick and Grunieson Street) will restrict the access from Whitecross Road and cause further congestion along this already busy road;
- Numbers of dwellings should be significantly reduced

Comments have also been received from Education as follows:

The educational facilities provided for this development site are Lord Scudamore Primary School and Whitecross High School.

Lord Scudamore Primary School has a planned admission number of 88. As at the schools spring census 2016:-

- 3 year groups were at or over capacity- YR=88, Y1=88, Y2=88

Whitecross Secondary School has a planned admission number of 180. As at the schools spring census 2016:-

- 1 year group was at or over capacity- Y8=193

In accordance with the SPD the Children's Wellbeing Directorate would therefore be looking for a contribution to be made that would go towards the inclusion of all additional children generated by this development. The Children's Wellbeing contribution for this development would be as follows:

<b>Contribution by No of Bedrooms</b>	<b>Primary</b>	<b>Secondary</b>	<b>Total</b>
<b>2+bedroom apartment</b>	£1,084	£1,036	£2,120
<b>2/3 bedroom house or bungalow</b>	£1,899	£1,949	£3,848
<b>4+ bedroom house or bungalow</b>	£3,111	£4,002	£7,113

### OFFICER COMMENTS

Additional matter for consideration - Impact upon Designated Heritage Assets.



To the south of the site lies the Grade II listed Trinity Church. Immediately north of this, between the site and the private open space (former playing area) to the south is Whitecross Day Nursery. The roof and structure of the church is visible from the site although its principal public face and setting is one that fronts Whitecross Road. Policy LD4 of the Core Strategy requires decision makers to consider proposals that affect heritage assets and where possible requires developments to protect, conserve, and where possible enhance heritage asset and their settings in a manner appropriate to their significance.

The proposed residential development is sited in a position that is some distance from the Listed Building and is not readily associated with its setting except maybe glimpsed views along the driveway from Whitecross Road. The development has been attractively designed to 'front' the private open space that forms a buffer between the Church and the development and officers are satisfied that the proposed development would not adversely affect the heritage assets or its setting.

Note error in paragraph 3 of the Heads of Terms – omit 'per dwelling' as this is a total sum.

### **NO CHANGE TO RECOMMENDATION**

**152042 - SITE FOR PROPOSED EXTRA CARE DEVELOPMENT COMPRISING OF UP TO 80 PASSIVHAUS DESIGNED ONE, TWO AND THREE BED APARTMENTS AND COMPLEMENTARY INDOOR AND OUTDOOR FACILITIES, INCLUDING SWIMMING POOL, GYM, SAUNA, CAFE, HAIR SALON, MEDICAL AND TREATMENT ROOMS, ALLOTMENTS, PUTTING GREENS AND PETANQUE PITCH WITH ASSOCIATED LANDSCAPING, AT LAND NORTH OF WHITESTONE BUSINESS PARK, WHITESTONE, HEREFORDSHIRE, HR1 3SE**

**For: Mr Collins per Mr Russell Pryce, Unit 5, Westwood Industrial Estate, Pontrilas, Hereford, Herefordshire HR2 0EL**

### **ADDITIONAL REPRESENTATIONS**

1. Environmental Health Manager: Recommends the addition of a standard contaminated land condition in view of the proximity to a closed landfill site.
2. Add condition SC1 Social and community facilities, to paragraph 2.1.

### **CHANGE TO RECOMMENDATION**

Add condition.

**160530 - PROPOSED DWELLING AT LAND AT CROSS PLACE, ACTON GREEN, ACTON BEAUCHAMP, HEREFORDSHIRE.**

**For: Mr R Oliver, Cross Place, Acton Beauchamp, Worcester, Herefordshire WR6 5AA**

## ADDITIONAL REPRESENTATIONS

To date a total of 13 further letters of support have been received.

Those supporting the proposal give the following reasons:-

- Demand for family housing in the area;
- Applicant a respected member of the community;
- In the absence of a Neighbourhood Development Plan this proposal will sustain local communities;
- Proposal is infill, not on farmland, and fits in with existing development;
- Adds to the housing stock;
- Old and young people can continue to live together;
- Is sympathetic to the locality.

## NO CHANGE TO RECOMMENDATION

**152204 - PROPOSED OUTLINE APPLICATION WITH SOME MATTERS RESERVED FOR 39 NO. DWELLINGS, GARAGES, ROADS, SCHOOL NATURE AREA, OFF ROAD SCHOOL PARKING AND ALLOTMENTS AT LAND OPPOSITE ORLETON SCHOOL, KINGS ROAD, ORLETON, HEREFORDSHIRE**

**For: Mr Price per Mr John Needham, 22 Broad Street, Ludlow, Shropshire, SY8 1NG**

## ADDITIONAL REPRESENTATIONS

Severn Trent has provided further commentary following the detailed response from the parish council in respect of the need for improvements to sewerage infrastructure. For the avoidance of any doubt, Severn Trent's further response is re-produced in full below:

*The sewerage system in Orleton comprises nearly entirely Foul Water Sewers (FWS) of 150mm diameter, which discharge into a 225mm dia. Combined Water Sewer (CWS) half way through the Village commencing in Mortimer Drive. The complete sewerage network discharges to the Orleton – Kings Road Terminal Pumping Station (TPS) just to the east of the Village. There is a short length of 225mm dia. Storm Water Sewer (SWS) in Mortimer Drive and the new development at Kitchen Hill Road has separate foul and storm water drainage.*

*The Orleton village catchment doesn't appear to have any public Storm Water Sewers, apart from the two areas mentioned above, therefore presumably the majority of properties are on soakaways for the disposal of surface water.*

*As you may know Severn Trent have recently undertaken investigation of the sewerage system in Orleton, involving modelling the network through monitoring the existing system. This exercise has demonstrated that generally the sewer system is adequate hydraulically, but the sewers through the rear gardens at Mortimer Drive have slack gradients and there is a proposal to provide an additional sewer in the highway in Mortimer Drive. Consideration is also to be given to refurbishment/enhancement of the Terminal Pumping Station at Kings Road.*

*The model was also subjected to the foul flows only from the proposed development at Kings Road and no adverse effects were noted.*

*Please bear in mind that any new development has a right of connection to the public sewerage system under Section 106 of the Water Industry Act 1991 and where there is a lack of capacity in the existing sewerage system for new development the Water Companies have a duty to provide the necessary reinforcements to the network to accommodate the development.*

*As you know the Water Companies are not in a position to object or prevent new development that is entirely a matter for Planning Authorities.*

*Severn Trent have not received a Development Enquiry for the proposed development at Kings Road, only the Planning consultation.*

*For your information I would advise you that surface water from all development sites will in the first instance be required to either discharge to soakaways or local ditchcourses/watercourses and then where either is not suitable or available to the public system where available, at a very low discharge rate equivalent to the 'Greenfield Runoff' rate.*

*It is essential that no surface water run-off is connected to the foul sewerage network and we fully support policies to ensure that surface water is managed through the appropriate use of sustainable drainage systems (SUDS) and to manage surface water flood risk within the development to reduce the impact on downstream watercourses.*

*As the proposed development at Kings Road sits on the flanks of a tributary of the Brimfield Brook all surface water from this development should be able to discharge to the brook.*

*As a matter of interest foul water flows from the proposed developments at Kings Road, would only generate a very small foul Dry Weather Flow (DWF) of 0.30 litres/second, which would not normally give any cause for concern.*

*Even when considering 6 x DWF, which is generally the basic design for new sewers in accordance with the publication known as 'Sewers for Adoption' (SfA) 'A Design & Construction Guide for Developers', the absolute peak flow would still only be 1.8 litres/second.*

*A 150mm dia. Foul Water Sewer (FWS) having a flat gradient of 1 in 150 has a capacity of 12.5 litres/second (l/s) and similarly a 225mm dia. sewer 30 l/s.*

*The approximate number of existing properties in Orleton is estimated at about 330 and the foul water DWF for this number is 2.55 l/s and again for the peak flow at 6 x DWF is 15.3 l/s. Therefore adding the existing and proposed flows we get a DWF of 2.83 l/s and a peak flow of 17.1 l/s. About a quarter to a third of the Village discharges to the larger 225mm dia. combined sewer.*

*Considering the proposed number of new dwellings of 39 this represents a 12% increase in dwellings in the village catchment.*

*But it must be remembered flows are discharging to several branch sewers of 150/225mm dia. and also that peak flows don't all occur together, because the flows have different distances to travel and not everyone is using their sanitary appliances at the same time, which means that the actual cumulative peak flow is generally less than half of the individual peak flow, giving an actual peak foul flow for the entire Village in the region of 6 to 9 litres/second, hence the sewerage system for foul flows has ample capacity.*

*The above flow figures are also inflated as they are based on design using a water consumption of 200 litres/head/day and 3 people per dwelling, whereas actual current water consumption is about 140 litres/head/day and the number of persons per dwelling is 2.4 on average. This means the above figures could be reduced by 45% to represent present day foul flows.*

*There is only a small foul sewer network in the Village which usually indicates the sewers were proposed for foul flows only and not surface water flows, although over the years some new properties may have also connected surface water to the foul system, but the majority of properties would be on soakaways, otherwise the network would be inundated in times of rainfall.*

*Where the village is being adversely affected by fluvial, pluvial and groundwater flood risks these are not the responsibility of Severn Trent Water but clearly where there is an interaction with the sewerage network we would look to work with other flood risk management authorities to understand the wider flood risk. As part of our ongoing feasibility regarding the sewer flood risk in the Orleton area we will be assessing whether fluvial flooding and land drainage might be affecting sewer capacity.*

*If there are residents within Orleton who are experiencing sewerage difficulties on a regular or infrequent basis, such as sewer flooding or restricted toilet use, then I would advise them to inform Severn Trent, in order that they can be logged and investigated and if justified added to one of the databases required to be kept by and reported to the Regulator.*

*Matters such as these can be reported to the Company's Customer Operations Service Centre (COSC) on 0800 783 4444 and they will log the call/problem and provide you with an incident number.*

*I trust this lengthy response will reassure both the Local Authority and the Parish Council that sewerage matters are in hand for the existing residents and also new development.*

One further letter has been received from a local resident raising the follow points:

- a good proportion of this land has been flooded twice so far this this year. In previous correspondence concerning this proposed development, I have detailed the flooding problems that I have observed in Orleton over the past 45 years and advised that very little has been done to alleviate these.
- the question of "over-development" is also a serious matter which, I do not think has been fully addressed.

## **OFFICER COMMENTS**

With regard to Severn Trent's further response, it is noted that they refer to Section 106 of the Water Industry Act and the burden of responsibility being on water companies to provide the necessary improvements to accommodate development. Planning authorities will only refuse planning applications on the basis of inadequate sewerage infrastructure where it can be demonstrated that there is environmental harm as a result of development taking place. Policy SD4 of the Core Strategy deals specifically with this point. In this instance officers would only look to recommend refusal on such grounds if it was evident that a lack of capacity would result in Significant Effects on the River Wye SAC. The site is not within the catchment and therefore is not material to the determination of the application.

In the absence of a five year housing land supply, paragraph 14 of the NPPF is engaged. It says that local planning authorities should approve development that is sustainable without delay, and should only look to refuse schemes where any adverse impacts would significantly and demonstrably outweigh the benefits.

The clear inference from Severn Trent's response is that it is the incidence of flooding that causes the sewers to over-top and not the amount of development connected to the treatment works. The contribution to flood alleviation works will serve to mitigate these impacts and allows us to make a positive recommendation. The comments also refer to the need to manage surface water run-off and the support that Severn Trent give to the use of sustainable methods to ensure this. This is addressed by condition 11 of the recommendation in the main report.

With regard to the additional letter of representation from a local resident, the issue of flooding is dealt with in the main report. The proposed housing is not within the flood zone and no technical objections have been raised by professional consultees in this regard.

The housing element of the scheme is located on an area of land amounting to 1.7 hectares. For 39 dwellings this amounts to 23 dwellings per hectare. The density compares favourably with other modern residential areas in the village. The Mortimer Drive / Mortimer Close estate is approximately 25 per ha. Halletts Well is slightly less at around 17 per ha. This demonstrates that the scheme is not out of context in terms of its density in relation to the surrounding area.

## **NO CHANGE TO RECOMMENDATION**



<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>18 MAY 2016</b>
<b>TITLE OF REPORT:</b>	<b>APPEALS</b>

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**CLASSIFICATION:** Open

## Wards Affected

Countywide

## Purpose

To note the progress in respect of the following appeals.

## Key Decision

This is not an executive decision

## Recommendation

**That the report be noted.**

## APPEALS RECEIVED

### Application 153078

- The appeal was received on 31 March 2016
- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Planning Permission
- The appeal is brought by Mr Robert Stuliglowa
- The site is located at 28 Breinton Road, Hereford, Herefordshire, HR4 0JX
- The development proposed is Proposed change of use of dwelling to form House of Multiple Occupancy for up to 8 people
- The appeal is to be heard by Written Representations

**Case Officer: Mrs Charlotte Atkins on 01432 260536**

### Application 150765

- The appeal was received on 27 April 2016
- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Planning Permission
- The appeal is brought by Mr Angus Davison
- The site is located at Trumpet Fields adjacent A438, Trumpet, Ledbury, Herefordshire, HR8 2RA
- The development proposed is Erection of polytunnels on fields at Trumpet for covered commercial growing of soft fruit and new pond area.
- The appeal is to be heard by Written Representations

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

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

## **APPEALS DETERMINED**

### **Application 150995**

- The appeal was received on 14 January 2016
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Planning Permission
- The appeal was brought by Mr F Price
- The site is located at Land at Yarpole, Leominster, Herefordshire
- The development proposed was Proposed 6 no detached dwellings & 4 no garages
- The main issue is whether the proposal can be considered as sustainable development, having particular regard to:
  - flood risk and land drainage;
  - the effect on the adjacent Conservation Area and on the character and appearance of the surrounding area more generally;
  - highway safety;
  - the setting of nearby listed buildings;
  - ecology;
  - and the effect on local services and infrastructure in the absence of a planning obligation

#### **Decision:**

- The application was Refused under Delegated Powers on 27 November 2015.
- The appeal was Dismissed on 25 April 2016.
- An Application for the award of Costs, made by the Appellant against the Council, was allowed in part.

**Case Officer: Mr Nicholas Hall on 01432 261808**

### **Application 151875**

- The appeal was received on 10 December 2015
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Prior Approval
- The appeal was brought by Mr K Lewis
- The site is located at Workshop Building, Middle Common Piggery, Lower Maescoed, Herefordshire
- The development proposed was Proposed change of use of an agricultural building to a dwelling.
- The main issues were:
  - (a) Whether, on the balance of probabilities, the building in question was used solely for agricultural purposes on 20 March 2013 as set out in Class Q.1(a)(i);
  - (b) Whether the building works proposed fall within the terms of Class Q.1(i)(i) with particular reference to internal alterations;
  - (c) Whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a dwelling (Class Q.2(1)(e)).

#### **Decision:**

- It was determined that Planning Permission was Required under Delegated Powers on 19 August 2015
- The appeal was Dismissed on 26 April 2016

**Case Officer: Mr Matt Tompkins on 01432 261795**



**Application 081479DCNW2008/1289/F**

- The appeal was received on 26 November 2015
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against Planning Conditions
- The appeal was brought by Bolsterstone Innovative Energy (Reeves Hill) Ltd
- The site is located at Reeves Hill, Reeves Lane, Near Knighton, Herefordshire
- The development proposed was Proposed erection and operation of 4 Wind Turbines and associated
- The main issue is whether the information submitted by the appellant in respect of condition 14 is sufficient for it to be discharged.

**Decision:**

- The condition was Refused under Delegated Powers on 9 July 2015.
- The appeal was Dismissed on 26 April 2016.

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





<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>18 MAY 2016</b>
<b>TITLE OF REPORT:</b>	<b>151072 - PROPOSED DEVELOPMENT OF A PETROL FILLING STATION, ANCILLARY RETAIL KIOSK WITH ASSOCIATED INFRASTRUCTURE AT LAND OFF BELMONT ROAD, HEREFORD, HEREFORDSHIRE, HR2 7JE</b>  <b>For: Mr Parkes per Mrs Kate Gapper, Park House, Greyfriars Road, Cardiff, CF10 3AF</b>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=151072&amp;search=151072">https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=151072&amp;search=151072</a>
<b>Reason Application submitted to Committee - Redirection</b>	

**Date Received: 7 April 2015**

**Ward:**  
**Hinton and Hunderton**  
**Adj Ward: Redhill**

**Grid Ref: 350726,239268**

**Expiry Date: 18 March 2016**

Local Members: Councillor ACR Chappell  
Councillor P Rone (adjacent ward)

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

- 1.1 The application site comprises an area of undeveloped flat land measuring approximately 0.23 hectares that is laid to grass, with the existing access roads that lie to the north included in this. The site lies to the south east of the Asda Store on the eastern side of the store's access road adjacent to the A49 (Belmont/Asda Roundabout). Immediately to the north of the site lie the allotments.
- 1.2 The site lies within the Conservation Area and within a flood zone 2 / 3.
- 1.3 The proposal is for the construction of a Petrol Filling Station (PFS) and associated infrastructure on the above site. The forecourt canopy will measure 19.57m by 12.25m with a height of 5.16m. The application submission advises that this has been designed to provide a minimal structure to meet functional requirements which include; a balance of providing weather protection to the fill points, and height clearances (4.5m) for service and customer vehicles plus support for artificial illumination. The kiosk, that will be sited to the northern end, would have a footprint of 13.2m by 9m with an overall height (flat roof) of 4m. To the rear of the kiosk is an external store area with timber board enclosure.
- 1.4 The proposed canopy is a modern design that 'turns the corner' and provides a curved canopy at the southern end. This is intended to heighten aesthetic value and overall improve the surrounding area. The proposed fascias are preformed aluminium pre-finished green upon which advertisement is fixed above in the form of acrylic light boxes. Night time illumination is provided by down lighters supported from gantry brackets of the canopy structure. Lighting will

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

be bisymmetric fittings to the central forecourt and asymmetric lights to the outer lanes minimising light spillage from the site.

- 1.5 The PFS will have six dispensers with fuel hose delivery to both sides of the dispenser providing 12 filling positions. It will operate a 'Pay at Pump' card payment system, meaning customers can pay with card at the pump or select the option to pay inside the kiosk. Passing lanes between dispensing positions are maintained for pump access which collectively provides a significantly more efficient operation.
- 1.6 The kiosk would offer the type of products commonly found at petrol filling stations, including motoring related items such as car cleaning products and screen wash, as well as a limited convenience goods offer including snacks and confectionery. It will not operate as a retail destination in its own right, but will be ancillary to the petrol forecourt.
- 1.7 Following consultation with the statutory bodies the application was amended to include additional works to the access road. These include:
  - a widened access road to accommodate two lanes of traffic entering the site, each 2.85m wide (which is operationally acceptable to ASDA)
  - KEEP CLEAR” markings on the circulating carriageway of the mini-roundabout
  - removal of seven parking spaces from the edge of the car parking area closest to the mini roundabout.
- 1.8 The application is supported by a variety of documents including:
  - Noise Impact Assessment
  - Design and Access Statement
  - Flood Risk Assessment
  - Transport Assessment (updated in April 2016)
  - Site Investigation report
  - Statement of Community Involvement
  - Viability report – ref: residential development (Confidential due to financial information)

## 2. Policies

### 2.1 Herefordshire Local Plan – Core Strategy

SS1	-	Presumption in Favour of Sustainable Development
SS4	-	Movement and Transportation
SS6	-	Environmental quality and local distinctiveness
MT1	-	Traffic Management, Highway Safety and Promoting Active Travel
LD1	-	Landscape and Townscape
LD2	-	Biodiversity and Geodiversity
LD3	-	Green Infrastructure
LD4	-	Historic Environment and Heritage Assets
SD1	-	Sustainable Design and Energy Efficiency
SD3	-	Sustainable Water Management and Water Resources
SD4	-	Wastewater Treatment and River Water Quality
ID1	-	Infrastructure Delivery

The Herefordshire Local Plan Core Strategy 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/core-strategy/adopted-core-strategy>

## 2.2 NPPF

Introduction -	Achieving sustainable development
Section 4 -	Promoting sustainable communities
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

## 3. Planning History

- 3.1 120228 - Development of Petrol Filling Station – Application withdrawn April 2012
- 3.2 CW2002/3441/F - Demolition of existing buildings and development of mixed-use scheme comprising Asda food store, community uses, residential development, replacement bowling green/club house, retained tramway and flood defence wall, parking, servicing, landscaping, new accesses and other highways infrastructure improvements – Approved with Conditions and Section 106 agreement – 1/3/2005.

## 4. Consultation Summary

### Statutory Consultations

- 4.1 Environment Agency (comments from May 2015)

#### Comments received in response to consultation dated May 2015:

Thank you for referring the above application which was received on the 3 February 2012. We object to the proposed development, as submitted, and request additional information as detailed below.

Due to the proximity of the proposed filling station in relation to the River Wye SAC we have concerns with regard sub water table storage of fuel in such a sensitive location. At this time we consider that insufficient information has been submitted to demonstrate that the risk of pollution to controlled waters is acceptable. The application fails to give adequate assurance that the risks of pollution are fully understood and that measures for dealing with them have been devised. The risk therefore remains unacceptable.

Groundwater Vulnerability: We note that the type of development proposed includes the use of underground storage tanks for the proposed petrol filling station. Our Groundwater Protection Policy (GP3) part 4 (available via: <http://www.environment-agency.gov.uk/research/library/publications/40741.aspx>) contains the following policy (PI-8, p25) in relation to underground storage of hazardous substances.

*"... On principal and secondary aquifers outside SPZ1 we also object (to the underground storage of hazardous substances), unless there are genuine and overriding reasons why: the activity cannot take place on unproductive strata, and b) the storage must be underground (for example public safety), in which case we expect the risks to be appropriately mitigated..."*

We would therefore require the applicant to demonstrate that they comply with points a and b. In addressing point b, a satisfactory risk assessment should be undertaken and submitted that

demonstrates the risks to potable water supplies posed by this development can be safely managed. This should include information about the proposed infrastructure including construction and leak detection etc.

The car parking areas should be drained to an interceptor before discharge to the surface water system. We note that the foul drainage is proposed to the mains sewer and would recommend that Welsh Water are consulted on the proposals. The drainage from any petrol filling station should also be to the mains foul sewer and incorporate suitable drainage control systems in the event of a spillage.

Summary: Under Planning Policy Statement (PPS) 23 ' Planning and Pollution Control', the application should not be determined until information is provided to the satisfaction of your Local Planning Authority that the risk to controlled waters has been fully understood and can be addressed through appropriate measures. This is not currently the case.

To address the above, we would request that the applicant submits: 1) a detailed proposal for SI works (scope of works) and an assessment of generic remedial options; 2) a risk assessment to demonstrate that the use of underground storage tanks for hazardous substances is acceptable in this location.

The applicant (their consultant) should contact my colleague Anna Besien in our Groundwater and Contaminated Land Team (01684 864453) should they wish to discuss the requirements of points 1) and 2) in more detail.

The application is currently considered contrary to PPS23 and maybe refused on this basis. If your Council is minded to approve the application we would request that you inform us of this with your reasons why so that we can make further comments.

Once additional information has been submitted we will be in a position to review our stance on the proposed development and recommend suitable conditions where appropriate. In the meantime we would object to the proposed development as submitted.

Note: We would recommend that your Contaminated Land Officer is also consulted on this application as the above comments relate solely to the protection of (controlled) waters.

Flood Risk: The site for the proposed petrol filling station is located within Flood Zone 3, high risk, of the River Wye, but is defended against flooding during the 1 in 100 year flood event by the Hereford Flood Alleviation Scheme.

We have reviewed the Flood Risk Assessment (FRA), dated 17th January 2012 and have the following comment to make at this stage.

The site was granted planning permission for a residential unit as part of the Asda Store application in 2005. The new proposal for a petrol filling station instead of the residential block results in a change from a More Vulnerable Development to a Less Vulnerable Development, which would be an overall betterment in a flood risk area.

Using the information provided in the FRA and Addendum, submitted in support of the original Asda Store application, the proposed finished floor level of 51 .OmAOD for the petrol filling station will be the same as that proposed for the previously proposed apartment block.

The Addendum to the FRA confirms that that minimal loss of floodplain storage volume resulting from the residential block (walls) would be offset by lowering other higher parts of the site. The built infrastructure of the petrol filling station is very small and would be comparable to the walls of the residential block, therefore, we consider the loss of floodplain storage to remain unchanged.

The Addendum also states that the site would be evacuated in the event of a severe flood warning. We do not normally comment on or approve the adequacy of flood emergency response and flood evacuation procedures accompanying development proposals, as we do not carry out these roles during a flood. Our involvement with this development during an emergency will be limited to delivering flood warnings to occupants/users if they sign up to the Flood Warnings Service.

Planning Policy Statement (PPS) 25 and the associated Practice Guide (paragraphs 7.23 to 7.31) place responsibilities on LPAs to consult their Emergency Planners with regard to specific emergency planning issues relating to new development. In all circumstances where warning and evacuation are significant measures in contributing to managing flood risk, we will expect LPAs to formally consider the emergency planning and rescue implications of new development in making their decisions.

The Flood Evacuation Management Plan should identify a flood level that will initiate evacuation of people and vehicles, and any subsequent closure of the building/car park. This trigger level should be when the access/egress is still 'dry' i.e. flood-free, to avoid any question of what is an acceptable level of flood risk to occupants.

Informative (note) to above: The Applicant /future occupiers should contact 03708 506506 to be set up on our flood warning system. In preparing the evacuation plan the applicant should have note to the FRA. Contact with the Environment Agency would enable the provision of the most up to date, best available, flood information.

#### 4.1.1 Comments received in Response to amended plans received - June 2015:

I refer to additional information submitted in support of the above application which was received on the 10 June 2015. Having reviewed the submitted information we are now in a position to remove our objection and would offer the following comments for your consideration at this time.

We can accept the justification for locating tanks below ground in this instance (GP3 Policy D2) but they must be located *above* the water table. In consideration of Policy D3 the report concentrates on the potential for historic contamination and the risk posed to controlled waters; this has been done adequately. The report does not deal with the risk posed to controlled waters from the application's proposed use as a petrol filling station.

However, the covering letter does acknowledge that the depth to groundwater in relation to the base of the tanks has been assessed. As such we are satisfied that the tanks will be located above the water table. We welcome the recent monitoring work that has been carried out to supplement the groundwater level data from 2012.

Limited mitigation measures have been detailed in either document submitted. We would expect details to be provided on any mitigation measures (such as leak detection and interstitial monitoring) that are to be adopted.

A risk assessment should therefore be submitted addressing any risk posed to controlled waters and should aid a decision as to whether tertiary containment should be considered at this site in addition to the mitigation measures mentioned above. Whilst we have no objection to the development, as submitted, you may wish to impose the following condition to secure the above detail regarding containment measures.

Condition: The development hereby permitted shall not be commenced until such time as a scheme to ensure that any petrol fuel storage tanks installed at the site shall be constructed, installed and monitored to ensure no pollution of groundwater has been submitted to, and

approved in writing by, the local planning authority. The scheme shall be implemented as approved and should include:-.

Detailed design of petrol storage tanks to include tank design to BS EN 12285-1:2003, leak detection system for tanks and pipe work, details of dual contained pipe work, details of the tank manufacturer's warranty and details of proposed methods of construction and installation.

Reason: To protect controlled waters.

With regard to the above we would not wish to be re consulted and do not seek to be consulted regards the discharge of conditions.

Note: We would recommend that your Contaminated Land Officer is also consulted on this application as the above comments relate solely to the protection of (controlled) waters.

Pollution control: Where pollutants are stored underground we would expect operators to adopt appropriate engineering standards. For petrol stations, systems should meet the specifications within the 'Blue Book' (APEA, 2011) as a minimum requirement with monitoring systems.

Flood Risk: The site for the proposed petrol filling station is located within Flood Zone 3, high risk, of the River Wye, but is defended against flooding during the 1 in 100 year flood event by the Hereford Flood Alleviation Scheme. We have reviewed the Flood Risk Assessment (FRA), dated 17th January 2012 and have the following comment to make at this stage. Whilst the FRA is now three years old, and National Planning Policy has been revised since 2012, we would agree with the conclusions drawn from the assessment. The site was granted planning permission for a residential unit as part of the Asda Store application in 2005. The new proposal for a petrol filling station instead of the residential block results in a change from a More Vulnerable Development to a Less Vulnerable Development, which would be an overall betterment in a flood risk area. Using the information provided in the FRA and Addendum, submitted in support of the original Asda Store application, the proposed finished floor level of 51.0mAOD for the petrol filling station will be the same as that proposed for the previously proposed apartment block. The Addendum to the FRA confirms that that minimal loss of floodplain storage volume resulting from the residential block (walls) would be offset by lowering other higher parts of the site. The built infrastructure of the petrol filling station is very small and would be comparable to the walls of the residential block, therefore, we consider the loss of floodplain storage to remain unchanged. The Addendum also states that the site would be evacuated in the event of a severe flood warning. We do not normally comment on or approve the adequacy of flood emergency response and flood evacuation procedures accompanying development proposals, as we do not carry out these roles during a flood. Our involvement with this End development during an emergency will be limited to delivering flood warnings to occupants/users if they sign up to the Flood Warnings Service.

In all circumstances where warning and evacuation are significant measures in contributing to managing flood risk, we will expect LPAs to formally consider the emergency planning and rescue implications of new development in making their decisions. The Flood Evacuation Management Plan should identify a flood level that will initiate evacuation of people and vehicles, and any subsequent closure of the building/car park. This trigger level should be when the access/egress is still 'dry' i.e. flood-free, to avoid any question of what is an acceptable level of flood risk to occupants.

Informative (note) to above: The Applicant /future occupiers should contact 03708 506506 to be set up on our flood warning system. In preparing the evacuation plan the applicant should have note to the FRA. Contact with the Environment Agency would enable the provision of the most up to date, best available, flood information.



Pollution Prevention: Developers should incorporate pollution prevention measures to protect ground and surface water. We have produced a range of guidance notes giving advice on statutory responsibilities and good environmental practice which include Pollution Prevention Guidance Notes (PPG's) targeted at specific activities. Pollution prevention guidance can be viewed at: <https://www.gov.uk/government/collections/pollution-prevention-guidance-ppg>

Export & Import of wastes at site: Any waste produced as part of this development must be disposed of in accordance with all relevant waste management legislation. Where possible the production of waste from the development should be minimised and options for the reuse or recycling of any waste produced should be utilised

## 4.2 Highways England

### 4.2.1 Comments made in response to consultation dated April 2015

Thank you for forwarding me the details of the above planning application. Highways England has been appointed by the Secretary of State for Transport as strategic highway company under the provisions of the Infrastructure Act 2015 and is responsible for the ongoing operation and maintenance of the strategic road network. Close to the above site is the A49 Trunk Road. Highways England has reviewed the Transport Assessment and associated plans and has concluded that insufficient information has been presented in order to allow Highways England to fully assess the safety and capacity impacts of the proposed development. The close proximity of the proposed development to the highly congested A49(T)/A465 junction and the previous planning history of the site indicate to us that further information from the applicant is necessary to allow these assessments to take place

Highways England therefore recommends a period of non-determination of three months in order to allow the applicant time to present the required level of detail to allow us to come to an informed decision as to the acceptability of the proposals.

### 4.2.2 Comments made in response dated 12<sup>th</sup> April 2016

Highways England was initially consulted on this planning application by Herefordshire Council on 29 April 2015. A technical review, focussing on the transport assessment was undertaken and this identified the need for further information to be provided in order to satisfy DfT Circular 02/2013 requirements and for Highways England to be able to make a reasoned and justified response.

On 18 May 2015, Highways England recommended that a 3 month period of non- determination be applied to the planning application in order to allow time for the applicant to provide the required information. This period of non-determination was then extended for an additional 3 month period on 18 September 2015 and then extended again for a further 3 month period on 18 December 2015.

In the meantime, during this extended period of non-determination, Highways England continued to engage with the applicant's transport consultants in order to try and resolve the outstanding technical issues.

Following extensive technical discussions regarding the modelling of the A49/A465 Belmont Road junction, Highways England concluded that the models submitted were not considered to be a robust representation of existing junction operations. However, notwithstanding this conclusion, one of the main concerns for Highways England would be the obstruction of the entry to the PFS by a tailback of existing vehicles from the store though the roundabout. This could cause vehicles to queue back from the internal ASDA roundabout onto the A49 junction, thereby creating additional congestion and safety issues.

In view of the above and also based on the relatively low number of trips which would be generated by the proposed development, Highways England considered that a more constructive approach would be to secure physical mitigation measures which would minimise the risk of vehicles queuing back onto the A49 junction from the internal ASDA roundabout.

This approach was discussed with the developer's transport consultant in order to identify and agree potential solutions. A package of mitigation measures has now been agreed with Highways England, as shown indicatively on CA Design drawing number (PA)04 Revision H. However, there is still a need to secure a legal agreement between Highways England and the applicant to ensure that the design and construction of the proposed development and mitigation works takes place in accordance with the relevant design standards and also to minimise the impact on the Strategic Road Network during construction works. We consider that the design standards requirement is best dealt with by way of planning condition.

#### 4.2.3 Comments received following consultation in April 2016 (letter dated 4<sup>th</sup> May 2016)

Highways England was originally consulted on 29 April 2015 and following extensive discussions with the applicant's transport consultant it was concluded that, subject to a package of mitigation measures being agreed with Highways England by the applicant, we were content that the proposals would not represent a severe impact on the strategic road network, and could therefore be dealt with by way of recommending that planning conditions be attached to any planning permission which may be granted. These would ensure that the risk of vehicles queuing from the internal ASDA mini roundabout back towards the A49 SRN junction is minimised.

We also required; a detailed boundary fencing plan, a detailed forecourt lighting installation and maintenance plan and a construction traffic management plan, to be agreed with Highways England to ensure the ongoing safe and effective operation of the A49.

We have reviewed the additional information uploaded to Herefordshire Council's online planning portal and have concluded that no information has been presented that would alter our position. We therefore reconfirm our recommendation of conditions to be attached to any planning permission which may be granted.

I note that our previous response, dated 12 April 2016, has been uploaded to the online portal and is therefore available for reference. Please do not hesitate to contact me if you require any more information or clarification.

4.3 Welsh Water raise no objections and recommend conditions be attached to any planning permission.

4.4 Natural England has made the following comments:

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

The Wildlife and Countryside Act 1981 (as amended)  
The Conservation of Habitats and Species Regulations 2010 (as amended)

Natural England's comments in relation to this application are provided in the following sections.

Statutory nature conservation sites – no objection

This application is in close proximity to the River Wye Site of Special Scientific Interest (SSSI). This SSSI forms part of the River Wye Special Area of Conservation (SAC).

Natural England advises your authority that the proposal, if undertaken in strict accordance with the details submitted, is not likely to have a significant effect on the interest features for which River Wye has been classified. Natural England therefore advises that your Authority is not required to undertake an Appropriate Assessment to assess the implications of this proposal on the site's conservation objectives.

This reply comprises our statutory consultation response under provisions of Article 20 of the Town and Country Planning (Development Management Procedure) (England) Order 2010, Regulation 61 (3) of the *Conservation of Habitats and Species Regulations 2010 (as amended)*, (The Habitat Regulations) and Section 28(I) of the *Wildlife and Countryside Act 1981 (as amended)*.

In addition, Natural England is satisfied that the proposed development being carried out in strict accordance with the details of the application, as submitted, will not damage or destroy the interest features for which the River Wye SSSI has been notified. 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(I) of the Wildlife and Countryside Act 1981 (as amended), requiring your authority to re-consult Natural England.

#### *Local sites*

If the proposal site is on or adjacent to a local site, e.g. Local Wildlife Site, Regionally Important Geological/Geomorphological Site (RIGS) or Local Nature Reserve (LNR) the authority should ensure it has sufficient information to fully understand the impact of the proposal on the local site before it determines the application.

#### *Impact Risk Zones for Sites of Special Scientific Interest*

Natural England has recently published a set of mapped Impact Risk Zones (IRZs) for Sites of Special Scientific Interest (SSSIs). This helpful GIS tool can be used by LPAs and developers to consider whether a proposed development is likely to affect a SSSI and determine whether they will need to consult Natural England to seek advice on the nature of any potential SSSI impacts and how they might be avoided or mitigated. Further information and guidance on how to access and use the IRZs is available on the Natural England website.

#### Internal Council Consultations

- 4.5 The Transportation Manager made the following comments in response to the originally submitted application of May 2015:

Recommends that the proposal is unacceptable for the following reasons:-

I would firstly comment that the Proposed Site Plan PA(03) submitted with the application does not reflect the current layout of the gyratory, in that it does not include the pinch point scheme improvements (additional right turn lanes into ASDA).

The same applies to Figure 3.1 of the Transport Statement, which indicates the observed count locations at the junction and the subsequent observed turn count drawings in Figures 3.2 to 3.4.

These drawings should be amended accordingly.

The A465 Belmont Road already suffers from significant queuing at many times of the day, and particularly in peak hours, and the proposed development will be likely to exacerbate that situation.

A LINSIG assessment for the operation of the signalised A49 gyratory has been included as part of the Transport Statement and the LINSIG diagram in figure 3.5 appears to reflect the current junction layout. The operation of the A49/A465 gyratory junction falls under the jurisdiction of Highways England and I will leave it to them to comment in respect of the acceptability of the projected impact on the operation of the overall junction.

I would add that a concern would be the obstruction of the entry to the PFS by a tailback of exiting vehicles from the store through the roundabout, and possible consequent impact on the single lane entry to the store from the gyratory. I would suggest consideration of the inclusion of a yellow box junction (albeit potentially not enforceable) to encourage protection of that movement.

#### 4.5.1 Comments received following consultation on amended plans and information **April 2016:**

The application is for a petrol filling station accessed off Asda roundabout, this is probably the most sensitive location in Hereford and directly impacts on the A49 and the A465. Any disruption on the network will impact on the city as a whole.

I was initially concerned about the application due to the sensitivity of the location, my concerns related to:

- the trip generation origin and destination
- Improvements undertaken by the then HA as part of the Pinch Point Programme and the potential for queuing as a direct result of the development.
- Internal mitigation
- Will the timings of the junction being impacted on by the development.

The scheme was also a concern of Highways England, I understand they have worked closely with the HE team and they have agreed mitigation measures.

In my discussions with the HE and the Transport Consultants for Asda, the scale of impact has been the main factor in assessing the impact.

- The consultants have used the industries standard method for assessing trip generation and is acceptable to the HE and ourselves.
- The applicant has put forward evidence to support the use of the store and an attached pfs in similar locations identifying the percentage usage, this approach is accepted by ours and HE consultants as being acceptable.
- The proposed development will have a high proportion of trips linked to the store or are on the road network and classed as pass by trips.
- The applicant has used peak hour trip generation to support the application and the potential impact of the proposal.
- The model has been successful in demonstrating that the junction will operate with the proposal within the Traffic Lights existing timings.
- New trips on the network as a result of the development have been demonstrated to be low, 25 in the am peak and 29 in the pm peak, 43 during Saturdays peak. This is accepted by our consultants and the HE's.
- Subsequently, the number of additional trips to and from A465, which is under the control of Herefordshire Council, is low. There are a total of 12 movements in the AM peak, 16 movements in the PM peak and 19 movements in the Saturday peak.
- The right-turn flow through the junction from the A49 northern arm is shown as 12 in the AM peak, 13 in the PM peak and 22 in the Saturday peak.

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

- The VISSIM modelling undertaken for the strategic site support shows a total of 3,490 vehicles passing through the junction in the 2017 AM peak and 4,099 vehicles in the 2017 PM peak. The additional flow generated by the PFS is minimal and is unlikely to have any material impact on the operation of the junction.

As with the HE, the developer was required mitigation to minimise the impact of the development, this has been done with the access being altered to accommodate to lanes which will minimise the potential for traffic tailing back to the junction access and preventing free flow of traffic.

The key consideration is the minimal impact on the flows through the junction. As such the impact cannot be considered severe and in my opinion, not one that could be defended at an appeal.

If you are minded to approve to approve the applicant will need to provide information as to how the site will be managed in relation to the refilling operation of the pfs to ensure there are no implications for the access road.

4.6 The Emergency Planning Manager has made the following comments:

Having reviewed this application, and based on the comments by the Environment Agency, if it is approved a Flood Management and Evacuation Plan will be required. As the site will be managed by Asda this plan should be included as an annex to the main store plan.

4.7 The Conservation Manager (Archaeology) has made the following comments:

During construction of the actual ASDA store and its highway links a decade ago, a number of archaeological finds of interest were made, dealt with under planning condition at the time. The finds are detailed in report HAS 775, 2011.

- As regards the current proposal, it is known that the new location has high potential for the presence of medieval and early post medieval iron working and other items of interest.
- Whilst I have no objection to what is proposed, suitable archaeological recording should be required as mitigation.
- Therefore, in accordance with saved UDP policy ARCH6 and Para 141 of the NPPF, I would recommend standard archaeological condition E01 / C47.

4.8 The Conservation Manager – (Ecology) has made the following comments:

The County ecologist initially raised concerns about the proposed submission and lack of protected species surveys as the site and its environs requires this assessment to determine impact upon protected species known to be associated with the site and with the R. Wye Special Area of Conservation.

Following further discussion and consideration of the submitted information, the County Ecologist, has submitted a revised comment, noting the character and isolation of the site from the river along with the Natural England comments and confirming that this should be considered acceptable and allowed without further constraints. Ecological enhancement is not considered necessary here and in fact it might be detrimental to ask for the considering the significant amount of activity taking place in the locality, not the least traffic.

4.9 The Environmental Health Manager has made the following comments:

I am in receipt of the Noise Impact Assessment for the proposed petrol filling station and have no objections to this development. I do, however, recommend a restriction on hours of deliveries to protect the amenity of neighbouring residential premises. I recommend that a condition be specified which prohibits deliveries to the store and refuelling of the petrol station between the hours of 11.00pm and 7.00am Monday to Saturday and 11.00pm to 8.00am on Sundays and Bank Holidays

## 5. Representations

5.1 Hereford City Council has made the following comments:

May 2015: Object - we object that this will cause an unacceptable increase in traffic movements in a junction system that is already at full capacity

May 2016: Objection - We re-iterate our objection that this development will add unacceptable congestion to a junction that is already a major concern especially the time taken to exit the Asda site. We concur with the many local objectors.

5.2 Hereford Civic Society have submitted detailed comments as follows:

### Comments received in response to consultation of April 2015:

Hereford Civic Society wishes to object strongly to this application.

This submission by ASDA is related to their application no 120228 of 2012 which was withdrawn in the face of the extensive objections that it then raised. These objections still apply. Our original reasons for opposing the 2012 application were:-

- Resulting increased traffic congestion on the Belmont Road roundabout and increased air pollution.
- The site deserves something more appropriate than a petrol filling station. It is a landmark site at a main entrance to the city and the original proposals when ASDA gained permission for their store was for a residential development of 18 flats. A filling station would have a major adverse effect on amenity of the area.
- The petrol filling station, if needed, could be sited elsewhere on the ASDA car parks remote from the main road.

These objections are still valid.

We would make the following further comments on the latest application:

- The photographs 1 and 4 submitted with the Design and Access Statement show the amenity value of the site.
- The traffic studies attempt to show that there would be "negligible" effects on the A49/A465 junction. We do not accept this. This is already a congested junction with long waiting and short actual movement periods to exit from ASDA and increased traffic exiting from the ASDA site will cause further and unacceptable delays on the main roads.
- The claim that because the original intention to construct flats on the site received approval then the principle of development on the site recognized increased trip generation is completely specious as this is a change of use and traffic will be increased.
- The application states misleadingly that the proposed entrance to the filling station is 650m away from the main junction. It is nearer 65m.

- Another petrol filling station is not needed in this area of the city
- We note the Environment Agency's objection to the application in regard to fuel storage tanks in an area of high ground water and support it.
- We continue to maintain our view that this site in a highly visible location is too valuable to be used for a filling station. The original approval for residential accommodation that could be in a well designed development that would add much to the amenity of the city should not be changed.

We believe this application should be rejected.

Comments received following consultation in April 2016:

Now we object as follows:

- Representations and Supporting Documents – this section has multiple references to Highway England Representations all of which are undated. I am sure we speak for many people who like to see clearly dated documents so that it is straightforward to follow. The drawings, to be fair are better recorded.
- The consultation of locals is entirely flawed. “243 shoppers signed the petition to support the petrol station application. Anecdotally, this represented between 90 and 95% of those who were approached by the consultation team. 5 requested comments cards and discussed other issues with the team. To date, these comments cards have not been returned.
- The survey was undertaken in store where the interviewees were clearly ASDA users and likely to be biased in favour. There was no consultation with the public who live and travel through the area. For a company to be retained to undertake consultation and to rely “anecdotally” is a farce, barely worthy of comment.
- For RPS to quote the NPPF on the length of time to consult and that the LA can reduce it is another joke to further muddy the process.

5.3 Letters of objection have been received from:

- Mrs G Cross, 12 Greenland Road
- S C Hicks and Mrs PJ Smith, Drybridge Villa, St Martins Street
- Sarah Lewis, 4 Cross Street, St Martins
- M Burns – (email)

These letters raise the following issues:

- Visual Impact of the development:
  - The proposed site is at present a nice grassed area which would benefit from some landscaping with plants to enhance it. A petrol station on this site is just an unnecessary and ugly blot on the landscape.
  - Inappropriate place to put a PFS on the entrance to our beautiful city
  - Lack of green infrastructure already
  - Well designed city gateway would allow for sensitive re-modelling of this area with street trees and other green infrastructure to mitigate high levels of air pollution, flooding etc.
- Traffic Impacts:
  - Cause even more traffic chaos in an area already complicated enough without encouraging more – and unnecessary manoeuvring at these junctions.
  - Area dangerous and unpleasant for pedestrians and cyclist especially. More opportunity for conflict on a main route for schools, stores, shops, housing and

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

community centres that are already disadvantaged by high levels of traffic and pollution, This area of Hereford is very bad for traffic and getting out of ASDA is bad enough. We do not need any more problems on Belmont side of town.

- The roundabout on which it is proposed to put the petrol station is already extremely congested. A petrol station would only add to this congestion. Drivers are already subject to delays as it can take ages to get through the traffic. We live right by this area and constantly see drivers jumping the lights, performing illegal manoeuvres, etc, because they are just fed up of waiting. A petrol station would undoubtedly bring even more traffic which in turn leads to more congestion and accidents in the area.
- There are enough petrol stations in Hereford already so I do not see we need any more supermarkets or private garages in this area. Being in this traffic jam is bad enough don't add any more please.
- Concerned that this could affect the effectiveness of the flood defences. There will obviously have to be major ground works to bury fuel storage tanks, etc.
- There are sufficient petrol stations in the vicinity, two of which are supermarket ones offering cheaper petrol. (Tesco's at Belmont ,Sainsbury's, Hinton Service Station on Ross Road and Rotherwas Service Station). There is therefore plenty of choice already within a short distance which provides competition on price. The ones which would suffer most are the independent ones who cannot compete with supermarket prices. This in turn will cause job losses as other petrol facilities are forced to close because they cannot compete on price.
- Air Quality - A petrol station will add to this with its fumes and by increasing traffic.
- We note that there are no proposed opening hours on the current planning application. Previously it was proposed to be 24 hours which is unnecessary as there are at least three 24 hour facilities currently in Hereford.
- Higher night time levels of light due to Asda Signage.

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

<https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=151072&search=151072>

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 proposed development falls to be considered having regards to the following issues:

- Principle of development
- Impact on the highway network and highway safety
- Design and impact upon the character of the area and Conservation Area
- Impact upon amenities
- Flood Risk
- Nature Conservation

### 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 is the Herefordshire Local Plan Core Strategy. Policy SS1 enforces what is at the heart of the Government’s National Planning Policy Framework in its ‘*presumption in favour of sustainable development*’. This policy states:

*When considering development proposals Herefordshire Council will take a positive approach that reflects the presumption in favour of sustainable development contained within national policy. It will always work proactively to find solutions which mean that proposals can be approved wherever possible and to secure development that improves the social, economic and environmental conditions in Herefordshire.*

*Planning applications that accord with the policies in this Core Strategy (and, where relevant with policies in other Development Plan Documents and Neighbourhood Development Plans) will be approved, unless material considerations indicate otherwise.*

*Where there are no policies relevant to the application or relevant policies are out of date at the time of making the decision then the council will grant permission unless material considerations indicate otherwise - taking into account whether:*

- a) any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in national policy taken as a whole; or*
- b) specific elements of national policy indicate that development should be restricted*

- 6.4 With regards to the effects that proposals have on the local economy the NPPF advises that “significant weight should be placed on the need to support economic growth through the planning system.” The NPPF also advises that “alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities.” These themes are echoed in the objectives of the Core Strategy.

- 6.3 The site formed part of the site that obtained planning permission for a mixed use development of Asda/community centres and residential development (19 flats) in 2005. The residential element of this scheme has not come forward. This was described in the report to committee of December 2003 as ‘*a modern flat roofed design ranging between 3 and 5 storeys in height. Adjoining highway, it is a maximum of 16.3 metres high. It has been broken down into three almost separate blocks which are joined by large glazed stairwells. The largest central block which is southerly facing is linked by the glass stair towers to two lower units each containing six apartments with a seventh “penthouse” apartment with its own roof terrace. The concept of these “stepped” elements is to reduce the scale of the building as it extends on one hand into the supermarket site and on the other to Greyfriars Bridge. A covered car park is provided beneath the building (at ground floor level) which enables an uninterrupted landscape courtyard garden area for future residents. ....and has provided details of a materials pallet. Primarily the central “tower block” will have a steel and glass finish with over sailing brise soleil to provide solar shading. A horizontal timber cladding would be applied to the setback apartments on each of the lower blocks with an off-white render applied to the side walls. Careful assessment has taken place with regard to this design and Officers are satisfied that the proposed building will effectively “turn the corner” and is capable in itself of making a positive architectural contribution to the city subject to its detailing.*

- 6.4 The loss of potentially 19 units of residential accommodation is considered to be a material consideration, especially given the Councils five year housing land supply deficit. However, having regard to paragraph 47 of the NPPF, and importantly, footnote 11 that states, ‘*to be considered deliverable, sites should be available now, offer a suitable location for development*

*now, and be achievable with a realistic prospect that housing will be delivered on the site within 5 years and in particular that the development of the site is viable'.*

6.5 In response to queries in respect of this, the applicant has provided a viability report that demonstrates that a policy compliant scheme (providing affordable housing and Section 106 contributions) on this site would not be viable. This assessment was not undertaken on the approved scheme but on a much larger proposal for 52 units. However, it is also noted that this site has remained vacant since planning permission was granted in 2005, and officers could not offer assurances that this site would come forward in the next five years and it would be difficult to sustain an argument that this site should lie dormant rather than consider an alternative use that may bring other benefits.

6.6 The applicants have identified that there is a need for a PFS to support their retail presence on the site stating:

*ASDA is proud to serve the local residents and they hope that by bringing a new PFS to the store, they can deliver low priced fuel to those residents. A recent report by the Office of Fair Trading found that the presence of an ASDA petrol station drives down the cost of fuel in a local area with the scale of this effect being much greater than the effects associated with any other retailer. This is based on ASDA's approach to being the first to lower their prices and the last to raise them. The Office of Fair Trading report highlights that on average the presence of an ASDA PFS in an area reduces the price of petrol by 0.8p per litre.*

*The Asda store is a very important store for the local community. Customers have come to expect a PFS to be associated with a modern foodstore and clearly the fact the Hereford store does not have one could result in customers being attracted to other foodstores in the locality which do have petrol filling stations. To not allow Asda to develop a PFS at its store in Hereford could, therefore, result in reduced trade as more and more customers choose to shop at those supermarkets with a PFS.*

6.7 Within the NPPF, market signals often identified are a material consideration, to ensure that local Authorities consider the changing demands and needs of the area. Whilst the loss of the opportunity to provide residential units is disappointing, it does not preclude the Local planning Authority from considering alternative uses and the benefits that these may bring in terms of the three roles of sustainability.

#### Impact on the highway network and highway safety

6.8 The sites location at the 'Asda / Belmont junction' and of the A49 and Belmont road makes the assessment and consideration of the impact on the local and strategic highway network one that is critical in the determination of this application.

6.9 Policy SS4 of the Core Strategy (Movement and Transportation) sets the approach for movement and transportation. This policy seeks to ensure that new developments are designed and located to minimise the impacts upon the transport network; ensuring that journey times and efficient and safe operation of the network are not detrimentally impacted. It also seeks to direct development to sustainable locations. More specifically, policy MT1 seeks to ensure that proposals have demonstrated that they have incorporated traffic management and safety into developments. The first and most relevant criteria to this proposal is the need to demonstrate that the strategic and local highway network can absorb the traffic impacts the development without adversely affecting the safe and efficient flow of traffic on the network or that traffic impacts can be managed to an acceptable level to reduce and mitigate any adverse impacts from the development.

6.10 As can be seen from the Consultation responses from Highways England and the Transportation Manager, this is an issue that has been cause for significant concern and

investigation over the course of this application. The TA and updated TA addendum address issues in respect of trip numbers, provide additional information about the assumed linked trips to the store and impact upon queue lengths and mitigation. The table extract below provides details of the anticipated trip numbers:

Table 1.1 : Proposed Vehicle Trip Generation

	Peak Hour Forecasts		
	AM (08:00 - 09:00)	PM (17:00 - 18:00)	Sat (12:00 - 13:00)
Trip Rate (PCUs per pump)	9.75	11.52	13.27
Trip Generation (12 pumps)	117	138	159
Minus Linked Trips (-70%)	35	41	48
Minus Pass-by Trips (-30% / -10%)	25	29	43

- 6.11 Highways England have carefully considered the impact of the proposed development on the Strategic Highway (A49) and concluded that subject to a package of mitigation measures being agreed with Highways England by the applicant, they were content that the proposals would not represent a severe impact on the strategic road network, and could therefore be dealt with by way of recommending that planning conditions be attached to any planning permission which may be granted. These would ensure that the risk of vehicles queuing from the internal ASDA mini roundabout back towards the A49 SRN junction is minimised. In addition they also require further details to be submitted including; a detailed boundary fencing plan, a detailed forecourt lighting installation and maintenance plan and a construction traffic management plan. Conditions are recommended to ensure that these are submitted and agreed with Highways England prior to the commencement of development to ensure the ongoing safe and effective operation of the A49.
- 6.12 The Transportation Manager has also looked at the Council maintained highways, and the implications that the proposed additional traffic movement may have on the local networks that meet the A49 such as Belmont Road or further north. Significant discussion has taken place between the parties and the Transportation Manager has confirmed that whilst the proposed PFS will generate additional trips and movements onto the network, with the proposed mitigation measures in place, altering the access to accommodate two lanes to minimise the potential for traffic tailing back to the junction access and preventing free flow of traffic.
- 6.13 The key consideration is the minimal impact on the flows through the junction. As such the impact cannot be considered severe. As such, proposals are considered to be compliant with the requirements of policy MT1 and with the NPPF para 32 that states: *All developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment. Plans and decisions should take account of whether.... improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.*
- 6.14 The proposed development also ensures that important pedestrian crossings are retained in line with the requirements of these policies. The concerns about pedestrian and highway safety raised by objectors are noted, along with the objection to the increase in traffic movements on this already congested junction. As detailed above, the technical investigation into the impact of the development has demonstrated, to the satisfaction of the relevant officers and statutory body, that the proposal is acceptable.

## Design and impact upon the character of the area and Conservation Area

6.15 This site is a prominent location, in the Central Conservation Area, a Designated Heritage Asset on the approach to the city. It is within the urban setting and highly influenced by the busy road, however it lies within the Riverside Meadows landscape character area due to its location on low lying land in the flood plain of the River Wye. To the south of the site, fronting Belmont Road lies Pool House, a Grade II listed black and white building, that is currently used as a dentist. This listed building is also a designated heritage asset.

6.16 Policy LD4 requires development proposals that affect heritage assets and the wider historic environment to:

*1. Protect, conserve, and where possible enhance heritage assets and their settings in a manner appropriate to their significance through appropriate management, uses and sympathetic design, in particular emphasising the original form and function where possible;*

*2. where opportunities exist, contribute to the character and local distinctiveness of the townscape or wider environment, especially within conservation areas;*

*3. use the retention, repair and sustainable use of heritage assets to provide a focus for wider regeneration schemes;*

*4. record and advance the understanding of the significance of any heritage assets to be lost (wholly or in part) and to make this evidence or archive generated publicly accessible and*

*5. where appropriate, improve the understanding of and public access to the heritage asset.*

*The scope of the works required to protect, conserve and enhance heritage assets and their settings should be proportionate to their significance. Development schemes should emphasise the original form and function of any asset and, where appropriate, improve the understanding of and public access to them.*

6.17 Policy SD1 of the CS also seeks to ensure that proposed developments create safe, sustainable and well integrated environments, ensuring that they take into account site characteristic and local context whilst making a positive contribution to the architectural diversity and character of the area.

6.18 Following the withdrawal of the application in 2012, the applicants have considered the visual impacts of the proposed development on this important gateway site. The proposed PFS and associated works have been designed with this site prominence in mind, using a non standard PFS canopy design, siting this to address the the inclusion of landscaping (low level to maintain visibility and subject to Highways England approval) to the front of the forecourt alongside the highway and access road. Given the context of the site, with prominence of the road, backdrop of the large store and associated car park, it would be difficult to argue that the proposed PFS did not conserve the character of the Conservation Area in accordance with the above policies and guidance contained within the NPPF. In considering the setting of the nearby Listed Building, again, this is set in a busy street scene, and the introduction of the PFS would conserve its setting in accordance with the above policies. Few benefits could be attributed to the environmental role of sustainable development.

## Impact upon Amenity

6.19 Policy SD1 also seeks to ensure that the amenities of local residents are protected. Whilst the site fronts the A49, there are residential properties opposite on St martins Street, Cross Street and Belmont Road / Belmont Avenue to the South West. The application includes a noise report that has been carefully considered by the Councils Environmental health officer who raises no objection to the proposed development. One query is raised about hours of delivery, this is a matter that also needs to be considered to address the Transportation managers concerns and as such a condition is recommended to establish the times for deliveries in respect of impact on residential amenity and highway safety.

### Flood Risk

- 6.20 The site is located within Flood Zone 3, high risk, of the River Wye, but is defended against flooding during the 1 in 100 year flood event by the Hereford Flood Alleviation Scheme. The Environment Agency have been consulted on these proposals and queries they raised initially have been answered and resolved. They recommend conditions be imposed and their comments, along with those of the Councils Emergency Planning Team. The proposals are considered to comply with the requirements of policy SD3 of the Core Strategy and guidance contained within the NPPF.

### Nature Conservation

- 6.21 The site also lies within close proximity of the River Wye Site of Special Scientific Interest (SSSI). This SSSI forms part of the River Wye Special Area of Conservation (SAC). Consultations with both Natural England and the Councils Ecologist have confirmed that if undertaken in strict accordance with the details submitted, is not likely to have a significant effect on the interest features for which River Wye. The proposal would therefore comply with the requirements of policy LD2 of the Core Strategy and guidance contained within the NPPF.

### Conclusions

- 6.22 The proposed development would comply with the relevant policies of the Core Strategy as discussed above and provide some social and economic benefits through the creation of employment when operational and through construction. The provision of the PFS would also offer consumers a wider choice in the market place. Whilst there are some concerns about the impact that the proposal would have on the natural built environment, this is, in the context not considered to be a significant harm that would warrant a reason for refusal. Likewise, the proposed development does give rise to concerns about impact on the busy and important junction on the local and strategic network, but the advice received is that this impact would not be so severe that an appeal could be defended. As such, the proposal is considered to be sustainable development and the presumption in favour is engaged.

## **RECOMMENDATION**

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

- 1. A01 Time limit for commencement (full permission)**
- 2. B01 Development in accordance with the approved plans**
- 3. G10 Landscaping scheme**
- 4. G11 Landscaping scheme - implementation**
- 5. The development hereby permitted shall not be commenced until such time as a scheme to ensure that any petrol fuel storage tanks installed at the site shall be constructed, installed and monitored to ensure no pollution of groundwater has been submitted to, and approved in writing by, the local planning authority. The scheme shall be implemented as approved and should include:-**

**Detailed design of petrol storage tanks to include tank design to BS EN 12285-1:2003, leak detection system for tanks and pipe work, details of dual contained pipe work, details of the tank manufacturer's warranty and details of proposed methods of construction and installation.**

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

**Reason: To protect controlled waters.**

- 6. Development shall not be occupied until the agreed mitigation works, as shown indicatively on CA Design drawing number (PA)04 Revision H, have been designed in detail to the written satisfaction of the Planning Authority, in consultation with the Highway Authority for the A49 Trunk Road, and implemented as approved.**

**Reason: To ensure that the safety and efficient operation of the strategic road network is not compromised by this proposed development**

- 7. A detailed boundary fencing plan and schedule shall be submitted to and agreed in writing by the Local Planning Authority, in consultation with the Highway Authority for the A49 Trunk Road, prior to the erection of any fencing or similar boundary treatment. The detailed fencing plan and schedule shall be implemented as approved.**

**Reason: To ensure that any proposed fencing structure does not jeopardise the ongoing safe operation of the strategic road network, in accordance with paragraph A1 of Annex A of DfT Circular 02/2013.**

- 8. A detailed forecourt lighting installation and maintenance plan and schedule, following the Institute of Lighting Professionals Guidance Notes for the Reduction of Obtrusive Light GN01:2011 (or as updated), shall be submitted to and agreed in writing by the Local Planning Authority, in consultation with the Highway Authority for the A49 Trunk Road, prior to the commissioning or alteration of any external artificial light source within the development hereby permitted. This shall give details of lighting specifications, lamp positions, directions, and intensity across the site and the surrounding highway network. The detailed lighting plan and schedule shall be implemented as approved and maintained in perpetuity.**

**Reason: To prevent stray light from the site affecting the ongoing safe operation of strategic road network, in accordance with paragraph 49 of DfT Circular 02/2013.**

- 9. No development pursuant to this application shall commence until a Construction Management Traffic Plan (CMP) has been submitted to, and approved in writing by, the local planning authority, in consultation with the highways authority for the A49 Trunk Road and that the scope of the CMP is to be agreed in writing, by the local planning authority, in consultation with the highways authority for the A49 Trunk Road prior to the preparation of the CMP. The CMP shall be implemented as approved and reviewed by the appointed main contractor throughout the construction period. If changes to the CMP are deemed necessary at any point throughout the construction period, these changes will be approved in writing by the local planning authority, in consultation with the highways authority for the A49 Trunk Road.**

**Reason: To ensure that the safety and efficient operation of the strategic road network is not compromised during the construction period.**

- 10. E01 Site investigation - archaeology**
- 11. H21 Wheel washing**
- 12. H27 Parking for site operatives**
- 13. I16 Restriction of hours during construction**

**14. Non – Standard – Hours of Delivery and management of delivery vehicles.**

**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. **EA informative - Flood Evacuation Contact**
3. **EA - Pollution Prevention**
4. **HN01 Mud on highway**
5. **HN04 Private apparatus within highway**
6. **HN05 Works within the highway**
7. **EA Waste informative**

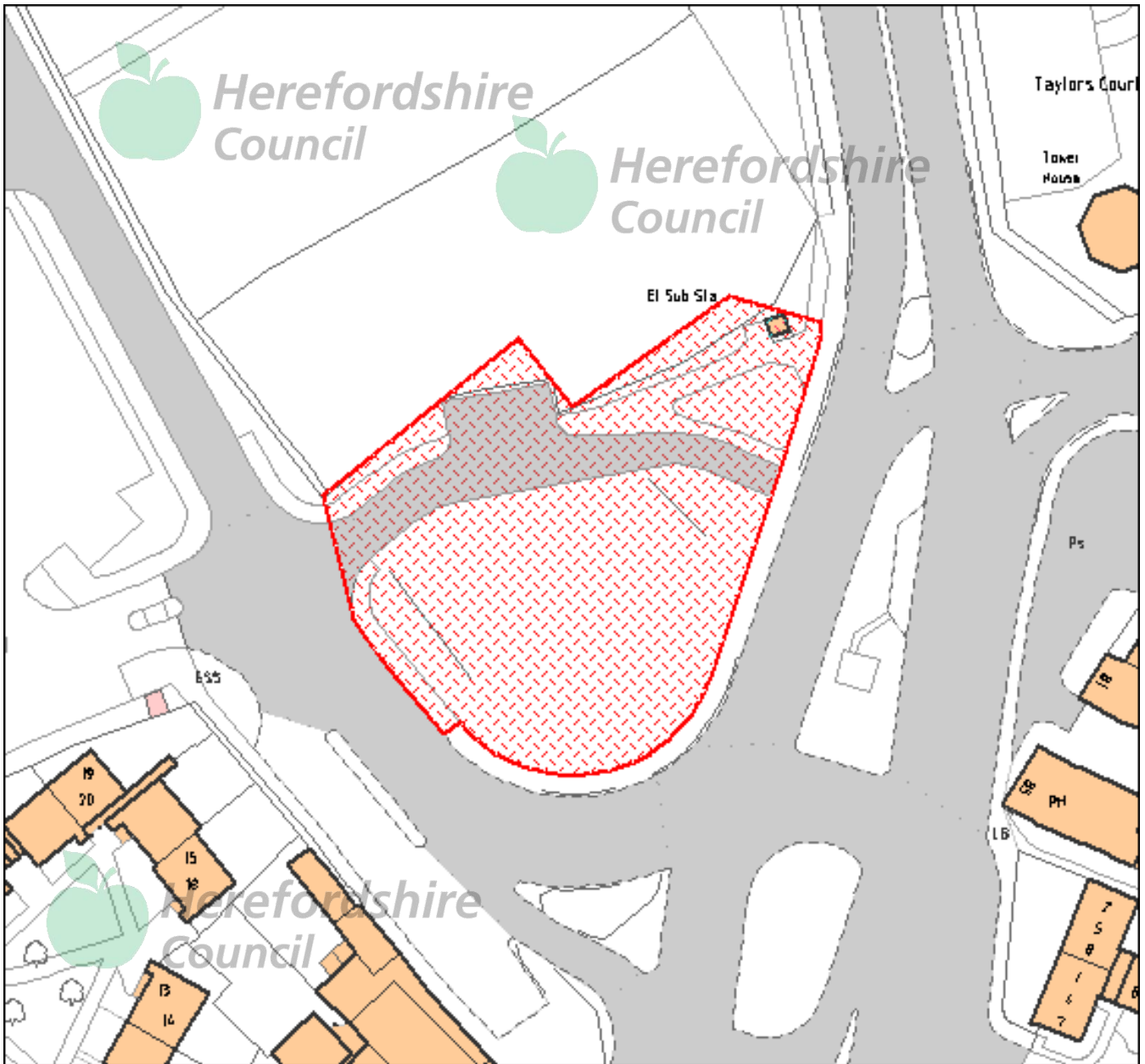
Decision: .....

Notes: .....

.....

**Background Papers**

Internal departmental consultation replies.



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

**APPLICATION NO:** 151072

**SITE ADDRESS :** LAND OFF BELMONT ROAD, HEREFORD, HEREFORDSHIRE, HR2 7JE

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





<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>18 MAY 2016</b>
<b>TITLE OF REPORT:</b>	<b>160812 - PROPOSED 23 DWELLINGS WITH GARAGES AND CAR SPACES AT LAND AT WEST WINDS, CHOLSTREY ROAD, LEOMINSTER, HEREFORDSHIRE, HR6 8RT</b>  <b>For: Mr And Mrs Preece per Mr John Needham, 22 Broad Street, Ludlow, Shropshire, SY8 1NG</b>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=160812&amp;search=160812">https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=160812&amp;search=160812</a>
<b>Reason Application submitted to Committee - Redirection</b>	

**Date Received: 16 March 2016**

**Ward: Leominster  
West**

**Grid Ref: 347567,258864**

**Expiry Date: 16 June 2016**

Local Members: Councillor FM Norman,

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

- 1.1 This application site lies adjacent to a site that has the benefit of planning approval for 12 dwellings, subject to a planning obligation/Section 106 agreement being completed. It comprises of the remainder of the field, not included in the previous application, a smaller field currently used for grazing sheep, with a small barn thereon, together with the garden associated with the existing bungalow, West Winds. The site amounts to approximately 0.73 hectares.
- 1.2 This is an outline application with all matters other than access reserved for subsequent approval. Access to the site is proposed via a new access to be created onto the B4529/ Cholstrey Road. An indicative layout has been submitted showing the existing bungalow demolished and the area redeveloped. The proposal is for 23 dwellings and not 25 dwellings as stated on the original planning application form.
- 1.3 A unilateral undertaking to cover affordable housing and developer contributions has been submitted and is currently under consideration.
- 1.4 An earlier proposal for 23 dwellings was refused planning approval by Committee on 24 February 2016, following a Committee Site inspection (reference 150053/O). Members approved subject to a Section 106 Agreement/Planning Obligation 12 dwellings on an adjoining site (reference 150052/O). The access for this approved site was originally proposed to be taken off Ginhall Lane, it was amended to Cholstrey Road; this access point will also be utilised by this development.

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

## 2. Policies

2.1 The Herefordshire Local Plan Core Strategy policies together with any relevant supplementary planning documentation can be viewed on the Council's website by using the following link:-

2.1 Herefordshire Local Plan – Core Strategy

L01	-	Development in Leominster
H1	-	Affordable Housing - Thresholds and Targets
MT1	-	Traffic Management
LD1	-	Landscape and Townscape
LD2	-	Biodiversity and Geodiversity
LD3	-	Green Infrastructure
SS1		Presumption in favour of sustainable development
SD1		Sustainable Development

2.2 National Planning Policy Framework (NPPF).

The following chapters are of particular relevance to this proposal:  
Introduction - Achieving sustainable development

Section 4 - Promoting sustainable communities  
Section 6 - Delivering a wide choice of high quality homes  
Section 7 - Requiring good design  
Section 8 - Promoting healthy communities  
Section 11 - Conserving and enhancing the natural environment

2.3 Neighbourhood Planning

The Neighbourhood Plan Area was designated on 27 July 2012. The plan has been through the Regulation 16 stage, however it is not proceeding to examination at this stage given concerns relating to conformity with the Core Strategy. These matters related too:

- Restrictions placed on the strategic site to develop the road in full prior to housing and the road to be built even if strategic site does not go ahead – contrary to policy LO2
- No further allocations to meet the requirements of policy LO1
- Settlement boundary has not been revised since that designated in 2007, therefore difficult to see how only infill growth can occur in line with policy LO1
- Settlement boundary does not acknowledge the urban extension area
- Requirements on energy efficiency on all new development over and above that within national policy – contrary to NPPF, building regulations and viability testing
- No indication for the level of growth within the three rural settlements within the area and no settlement boundaries designated to demonstrate delivery – contrary on RA2
- Open countryside policy does not conform with policy RA3
- Retail policy ignores the sequential approach and the requirements of the Core Strategy – contrary to the NPPF and policy E5
- Onerous requirements on new business to meet renewable energy statement

- Designation of a large area of green space in conflict with the strategic urban expansion area – contrary to policy LO1 LO2 and the NPPF
- Designation of open space on land with existing planning permission

2.4 The Core Strategy 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/core-strategy/adopted-core-strategy>

### 3. Planning History

- 3.1 150052/O - Proposed 12 dwellings - Approved 24 February 2016 , subject to section 106 Agreement/Planning Obligation – 24/2/16
- 3.2 150053/O – Proposed 23 dwellings – Refused 24/2/ 2016
- 3.3 06/1199/F - Closing off of existing field access and creation of a new one. Approved 6/12/06
- 3.4 98/108/O - Erection of a 40 bed holiday hotel. Refused 17/6/98
- 3.5 96/987/O - Erection of a 40 bed holiday hotel. Withdrawn 14/3/87

### 4. Consultation Summary

Statutory Consultations

- 4.1. Welsh Water: No objections – subject to condition

Internal Council Consultations

- 4.2 Transportation Manager

No objection subject to a series of conditions as set out in the recommendation.

S106 Highway Contributions based on the following:

Medium Accessibility; 2 bedrooms = £1967; 3 bedrooms = £2592; 4 bedrooms = £3933

- 4.3 Drainage Consultant: Conditional support

#### Overall Comment

We have no objections in principle to the proposed development on the grounds of flood risk and drainage. However we recommend that the following information is provided as part of any subsequent reserved matters application:

- A detailed surface water drainage strategy that includes drawings and calculations that demonstrate consideration of SUDS techniques, no surface water flooding up to the 1 in 30 year event and no increased risk of flooding as a result of development up to the 1 in 100 year event and allowing for the potential effects of climate change;
- A detailed foul water management strategy;

- Proposals for the adoption and maintenance of the surface and foul water drainage systems.

Prior to construction we would also require the following information to be provided:

- Results of infiltration testing undertaken in accordance with BRE365 and results of recorded groundwater levels, noting that the base of any infiltration structure should be a minimum of 1m above the highest recorded groundwater level.

#### 4.4 Conservation Manager (Ecology): No objection

This application is associated with P/150052/F and relates to the same ecological report. I have read the ecological report submitted which bears the same comments. I have said that it is very brief but, knowing the site and reading the report, I would agree that this development is likely to have a low impact given the biodiversity status of the site. There was no search commissioned from Herefordshire Biological Records Centre. This would have revealed badgers active within the vicinity. Although the report states no evidence of badgers on the site, the potential presence will need accommodating in any plan to develop the site to avoid issues during construction. Any work clearing scrub will need to take place outside the nesting season for birds with inclusion of some enhancements for birds in the development. If this application is to be approved I would therefore advise that the following non-standard condition is attached as follows:

*Prior to commencement of the development, a species mitigation and habitat enhancement scheme integrated with the landscape scheme should be submitted to and be approved in writing by the local planning authority, and the scheme shall be implemented as approved.*

*An appropriately qualified and experienced ecological clerk of works should be appointed (or consultant engaged in that capacity) to oversee the ecological mitigation work.*

#### Reasons:

To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010 and Policies NC1, NC6 and NC7 of Herefordshire Unitary Development Plan.

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

#### 4.6 Housing Officer – No objection

My response is unchanged because it would still be 6 units. 25% of 23 is 5.75 rounded up to 6. 25% of 25 was 6.25 rounded down to 6.

#### 4.7 Parks and Countryside Manager –No objections

My comments remain the same as those for previous application 150053 which was refused as the proposed layout remains the same.

**Open Space Provision:** In accordance with **Core Strategy OS1 (Requirement for open space, sport and recreation facilities) and OS2 (Meeting open space and recreation needs)** open space provision will be sought from all new residential development and considered on a site by site basis in accordance with all applicable set standards of quantity, quality and accessibility which in this instance are locally the Open Space Study 2006, the Play Facilities Study and Investment Plan 2012 and nationally the Fields In Trust guidance. Where on-site provision is not appropriate off-site contributions may be sought where appropriate on an equally beneficial basis for the local community.

Although developments of 35 houses (this takes account of application 150052 as well which is still valid) could provide a good sized POS and play on site (using recommended standards of provision from both the Play Facilities Study and the Fields in Trust Guidance of 0.8ha of play to include 25ha formal play per 1000 population) given its location near to an existing play area at Ginhall Green, investment to provide additional play equipment here would help to improve this facility and its play value. In accordance with the Play Facilities Study and Investment Plan, the existing provision although in reasonable condition, is only for juniors, is small and offers little in play value. This area could be expanded and developed into a more exciting play area for both existing residents and those from the proposed development. The Leominster Neighbourhood Plan also supports this view and within its green and open space policies acknowledges the need to both protect and enhance this area.

Therefore, in accordance with the SPD on planning Obligations we would ask for this contribution based on market housing only as follows:

2 bed: £965

3 bed: £1,640

4+ bed: £2,219

*\*Please note this discounts the first bedroom as this is for children.*

(This comment was made on the basis that the two applications i.e. 150052 and this one may have been combined to simplify the s106 procedure, hence reference to 35 houses. Nevertheless the requirements apply equally to both sites)

- 4.8 Education and Commissioning Manager – No response- although previously no objection as there was spare capacity at both Primary and senior schools so no contribution.

## **5. Representations**

### **5.1 Leominster Town Council Recommend REFUSAL for the following reasons:**

- The application contains incorrect information regarding the number of dwellings proposed;
- The development of this site, which is not within the built up area of Leominster, has not been identified in the Neighbourhood Development Plan and will exacerbate air pollution levels at Bargates. Accordingly the proposal is contrary to the provisions of Policy L01 of Herefordshire Local Plan – Core Strategy
- The proposed access onto Cholstrey Road is considered dangerous and would create a significant traffic hazard;
- The proposal goes against Policy LD3 of the adopted Herefordshire Core Strategy which requires the retention of existing Green Infrastructure corridors and linkages;
- The proposal is sited directly in the Green Corridor as designated by both the Adopted Core Strategy and the emerging Leominster Area Neighbourhood Plan;
- The proposal goes against Policy LANP 10 of the emerging Leominster Area Neighbourhood Plan, currently at Regulation 16 Stage;
- The proposal goes against Policy LANP 11 of the emerging Leominster Area Neighbourhood Plan, currently at Regulation 16 Stage;
- The Leominster Area Neighbourhood Plan supports the adopted Herefordshire Core Strategy especially with regard to the protection of the Green Infrastructure Corridor.

Leominster Town Council also wishes to support the decision of the Herefordshire Planning Committee which refused planning application P150053 on this site.

5.2 Leominster Civic Society objects: rightly refused previously, not identified in NDP, also contrary to LO1 (viz air pollution at Bargates). Arguments relating to 5 year land supply spurious as piecemeal development on a green field site, not planned or acceptable

5.3 Nine letters of objection have been received making the following points

- Outside of the UDP boundary
- Loss of green corridor in LANP
- Greenfield site, brownfield land available will be sold soon -425 dwellings site
- NDP identifies this land as integral part of the green corridor
- Highway safety, poor junction –site of many accidents.
- Ginhall Lane is used as a rat run and by pedestrians, increased use by new residents
- The road floods near the junction.
- Increased pollution at Bargates, contrary to Policy LO1
- Pollution above government levels and EU laws
- Application states 25 dwellings, however 23 dwellings detailed

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

<https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=160812&search=160812>

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 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 The two-stage process set out at S38(6) above requires, for the purpose of any determination, assessment of material considerations. In this instance, and in the context of the housing land supply deficit, the NPPF is the most significant material consideration for the purpose of decision-taking. NPPF Paragraph 215 has the effect of superseding Herefordshire Local Plan - Core Strategy UDP policies with the NPPF where there is inconsistency in approach and objectives.

6.4 The NPPF requires at paragraph 47 that Councils maintain a 5 year supply of housing land, which in Herefordshire Council's case must be supplemented by a 20% buffer for under supply. Recent appeal decisions at Leintwardine and Ledbury have confirmed that the Council does not benefit from an NPPF compliant supply of housing and as such Core Strategy policies relevant to the supply of housing should not be considered up to date as prescribed by paragraph 49 of the NPPF.

6.5 As such, and in the light of the housing land supply deficit, the housing policies of the NPPF must take precedence over the Core Strategy housing supply policies and the presumption in favour of approval as set out at NPPF paragraph 14 is engaged *if* development can be shown to be *sustainable*. This requirement is mirrored in policy SS1 of the Core Strategy.

- 6.6 NPPF Paragraph 14 states that for decision making, the presumption in favour of sustainable development means:-
- *“Approving development proposals that accord with the development plan without delay; &*
  - *Where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:-*
    - *any adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or*
    - *specific policies in this Framework indicate development should be restricted.*
- 6.7 Policy LO1 of the Core Strategy states that Leominster will accommodate a minimum of 2,300 new homes within the plan period. This proposed development would contribute to this required growth and as such, the proposal would comply with the aims of this housing supply policy and weight can continue to be attributed to this.
- 6.8 Although not expressly defined, the NPPF refers to the three dimensions of sustainable development as being the economic, environmental and social dimensions. The economic dimension encompasses the need to ensure that sufficient land is available in the right places at the right time in order to deliver sustainable economic growth. This includes the supply of housing land, which is further reinforced in Chapter 6 – Delivering a wide choice of high quality homes. Paragraph 47 requires that local authorities allocate sufficient housing land to meet 5 years’ worth of their requirement with an additional 5% buffer. Deliverable sites should also be identified for years 6-10 and 11-15. Paragraph 49 states:
- “Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites.”*
- 6.9 Fulfilment of the environmental role requires the protection and enhancement of our natural, built and historic environment; and, as part of this, helping to improve biodiversity. The relevant environmental policies of the Core Strategy that support this role are SS6, LD1, LD2 and LD3 a of the Herefordshire Local Plan – Core Strategy. All of these policies are compliant with the NPPF and can continue to be given weight in the decision making process.
- 6.10 The contribution the development would make in terms of jobs and associated activity in the construction sector and supporting businesses should also be acknowledged as fulfilment of the economic role and significant weight must be attributed to this. Likewise S106 contributions and the new homes bonus should also be regarded as material considerations.
- 6.11 The social role is reflected in the provision of a greater supply of housing and breadth of choice, including affordable housing. In this instance, enhancements to footway and pedestrian facilities locally, and increase in population locally that would support local facilities and services can also be considered as support to social role of sustainable development and can be afforded significant weight in the decision making process.
- 6.12 The principle of providing a single access point onto Cholstrey Road to serve the two adjoining sites i.e the one previously refused and the site approved for 12 dwellings has already been determined positively and therefore issues relating to the new access point are not considered to provide sustainable grounds for resisting residential development
- 6.13 The five year land supply issue is a new issue that has come to the fore, following the earlier refusal and appeal decisions set out above. It has substantive weight particularly given that the

Neighbourhood Development Plan does not conform with the Core Strategy in relation to the identification of sites for residential development besides those already cited to the south of Leominster and at Barons Cross and therefore the provisions of the National Planning Policy Framework requiring that sustainable development be approved, without delay, in accordance with Paragraph 14 of the NPPF is a substantive ground in support of this proposal.

- 6.14 Policy LD3 of Core Strategy does not provide an embargo on all development in green corridors, each application needs to be determined on its merits given that some green corridors provide wildlife corridors, others flood plains and in others such as in this instance there are opportunities for providing linkages to existing open spaces and recreation areas. There is no in principle objection to residential development in green corridors. There will be no removal of trees and the only hedgerow will be that required to provide the visibility splays for the new access. The key issue will be the integration and connection to the existing green infrastructure along Ginhall Lane.
- 6.15 Policy LO1 of Core Strategy states that residential development will be encouraged on the basis that it does not exacerbate air pollution levels at Bargates. The key word is exacerbate this is in the context of the large number of existing dwellings on the western side of Leominster. Whilst it will be the case that traffic movements will marginally increase within the designated area at Bargates, the major constituent to pollution levels is commercial traffic which can only readily be addressed with the provision of the southern relief road. This factor is not sufficient in the context of existing development to outweigh the benefits of provided much needed residential development in a sustainable location.

## **Summary and Conclusions**

- 6.16 The pursuit of sustainable development is a golden thread running through both plan-making and decision-taking and identifies three dimensions to sustainable development: the economic, social and environmental roles. This is carried on in the provisions of the Core Strategy objectives which translate into policies encouraging social progress, economic prosperity and controlling environmental quality.
- 6.17 When considering the three indivisible dimensions of sustainable development, as set out in the NPPF, officers consider that the scheme when considered as a whole is representative of sustainable development and that the presumption in favour of approval is engaged. The site is one that constitutes a smaller scale non-strategic site as defined in Policy L01 in the Core Strategy. Therefore, given the context of the site and relationship to existing residential areas it is concluded that the proposal accords with this policy requirement. This is a sustainable location with good access to a wide variety of services and facilities. In this respect the proposal is in broad accordance with the requirements of chapter 4 of the NPPF (Promoting sustainable transport).
- 6.18 The contribution the development would make in terms of jobs and associated activity in the construction sector and supporting businesses should also be acknowledged as fulfilment of the economic role. Likewise Section 106 contributions should also be regarded as material considerations. In providing a greater supply of housing and breadth of choice, including 25% affordable, officers consider that the scheme also responds positively to the requirement to demonstrate fulfilment of the social dimension of sustainable development. Beyond this, the application also makes provision for contributions to improved recreation, which will be dedicated to the Parish Council. Monies will also secure improvements for cycle way provision. In broader terms it is considered that this is an appropriate site that can provide the scale of housing proposed and associated community benefits.
- 6.19 This site will have a landscape impact, this though is ameliorated by the back drop trees to the north-east and south-east. Indeed this impact will be less than for the adjoining site approved for 12 dwellings.



- 6.20 Additional traffic will join the B4529 Road, however this road is capable of taking the increased traffic volumes without having an adverse impact on highway safety
- 6.21 The proposal will result in an increase in traffic movements at Bargates and whilst this will not be a neutral impact, the major constituent of adverse pollution levels is produced by larger predominantly HGV vehicles which can only be addressed by the provision of the southern relief road.
- 6.21 Foul and surface water drainage can be provided, as confirmed by Welsh Water and the Land Drainage Consultant
- 6.22 Ecological issues can be addressed by submission of a habitat enhancement scheme that will provide measures for improving biodiversity in and around the development site.
- 6.23 Officers conclude that there are no overriding landscape, highways and associated pollution, drainage and ecological issues that should lead towards refusal of the application and that any adverse impacts associated with granting planning permission are not considered to significantly and demonstrably outweigh the benefits particularly given the lack of a 5 year land supply and buffer. It is therefore recommended that planning permission be granted subject to the completion of a legal undertaking and appropriate conditions.

## **RECOMMENDATION**

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

- 1 A02 - Time limit for submission of reserved matters (outline permission)**
- 2 A03 - Time limit for commencement (outline permission)**
- 3 A04 - Approval of reserved matters**
- 4 Prior to commencement of the development, a species mitigation and habitat Enhancement scheme integrated with the landscape scheme should be submitted to and be approved in writing by the local planning authority, and the scheme shall be implemented as approved**

**An appropriately qualified and experienced ecological clerk of works should be appointed (or consultant engaged in that capacity) to oversee the ecological mitigation work**

**Reason : To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010 and Policy LD2 of Herefordshire Local Plan-Core Strategy**

- 5 L01 - Foul/surface water drainage**
- 6 L02 - No surface water to connect to public system**
- 7 L03 - No drainage run-off to public system**

8        **No development shall commence until the developer has prepared a scheme for the comprehensive and integrated drainage of the site showing how foul water, surface water and local drainage will be dealt with and this has been approved by the Local Planning Authority**

**Reason : To ensure that effective drainage facilities are provided for the proposed development, and that no adverse impact occurs to the environment or the existing public sewerage system**

9        **I20 - Scheme of surface water drainage**

10       **H03 - Visibility splays**

11       **H06 - Vehicular access construction**

12       **H13 - Access, turning area and parking**

13       **H27 - Parking for site operatives**

**INFORMATIVES:**

1.       **The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework**
2.       **HN10 - No drainage to discharge to highway**
3.       **HN08 - Section 38 Agreement & Drainage details**
4.       **HN04 - Private apparatus within highway**
5.       **HN01 - Mud on highway**
6.       **HN28 - Highways Design Guide and Specification**
7.       **HN05 - Works within the highway**

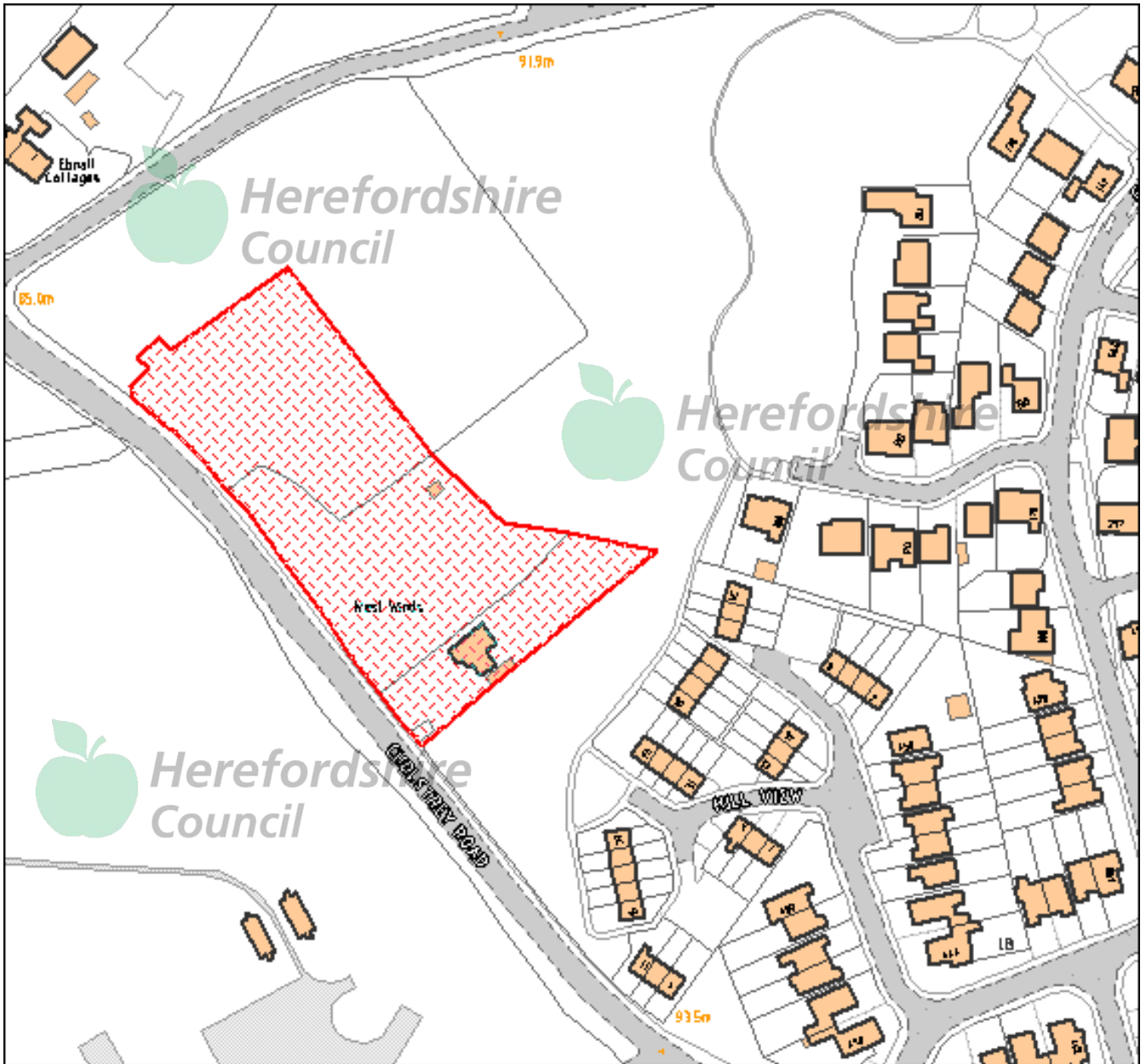
Decision: .....

Notes: .....

.....

**Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** 160812

**SITE ADDRESS :** LAND AT WEST WINDS, CHOLSTREY ROAD, LEOMINSTER, HEREFORDSHIRE, HR6 8RT

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



# DRAFT

# HEADS OF TERMS

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

### Planning Application – P160812/O

Site address:

**Land at West Winds Cholstrey Road Leominster Herefordshire HR6 8RT**

Planning application for:

**Proposed 23 dwellings with garages and car spaces.**

This Heads of Terms has been assessed against the adopted Supplementary Planning Document on Planning Obligations dated 1<sup>st</sup> April 2008, and Regulations 122 and 123 of the Community Infrastructure Levy Regulations 2010 (as amended). All contributions in respect of the residential development are assessed against open market units only except for item 3 which applies to all new dwellings.

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

£1,967 (index linked) for a 2 bedroom open market unit

£2,592 (index linked) for a 3 bedroom open market unit

£3,933 (index linked) for a 4+ bedroom open market unit

to provide a sustainable transport infrastructure to serve the development. The sum shall be paid on or before the commencement of the development, and may be pooled with other contributions if appropriate.

The monies shall be used by Herefordshire Council, in consultation with the Parish Council, at its option for any or all of the following purposes (tbc)

a)

b)

**NOTE: A Sec278 agreement may also be required and/or used in lieu of the above contributions depending on the advice of the local Highways Authority**

2. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of £80 (index linked) per dwelling. The contribution will be used to provide 1x waste and 1x recycling bin for each open market property. The sum shall be paid on or before the commencement of the development

3. The maintenance of any on-site Public Open Space (POS) will be by a management company which is demonstrably adequately self-funded or will be funded through an acceptable on-going arrangement; or through local arrangements such as the parish council and/or a Trust set up for the new community for example. There is a need to ensure good quality maintenance programmes are agreed and implemented and that the areas remain available for public use.

**NOTE: Any attenuation basin and/or SUDS which may be transferred to the Council will require a commuted sum calculated in accordance with the Council's tariffs over a 60 year period**

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

£695 (index linked) for a 2 bedroom open market unit  
£1640 (index linked) for a 3 bedroom open market unit  
£2219 (index linked) for a 4 bedroom open market unit

The contributions will be used to enhance the play area at Ginall Green which will serve the development

The sum shall be paid on or before the commencement of the development, and may be pooled with other contributions if appropriate.

5. The developer covenants with Herefordshire Council that 25% (6 units on basis of a gross development of 23) of the residential units shall be "Affordable Housing" which meets the criteria set out in policy H9 of the Herefordshire Unitary Development Plan or any statutory replacement of those criteria and that policy including the Supplementary Planning Document on Planning Obligations.

**NOTE: the mix of tenure and unit size of the affordable units shall be agreed with Herefordshire Council:**

**NOTE: For the avoidance of doubt, the term intermediate tenure shall not include equity loans or affordable rent.**

6. All the affordable housing units shall be completed and made available for occupation in accordance with a phasing programme to be agreed in writing with Herefordshire Council.
7. The Affordable Housing Units must at all times be let and managed or co-owned in accordance with the guidance issued by the Homes and Communities Agency (or any successor agency) from time to time with the intention that the Affordable Housing Units shall at all times be used for the purposes of providing Affordable Housing to persons who are eligible in accordance with the allocation policies of the Registered Social Landlord; and satisfy the following requirements:-
  - 7.1. registered with Home Point at the time the Affordable Housing Unit becomes available for residential occupation; and
  - 7.2. satisfy the requirements of paragraphs 9 & 10 of this schedule
8. The Affordable Housing Units must be advertised through Home Point and allocated in accordance with the Herefordshire Allocation Policy for occupation as a sole residence to a person or persons one of whom has:-
  - 8.1. a local connection with the parish of Orleton
  - 8.2. in the event of there being no person with a local connection to Orleton any other person ordinarily resident within the administrative area of the Council who is eligible under the allocation policies of the Registered Social Landlord if the Registered Social Landlord can demonstrate to the Council that after 28 working days of any of the Affordable Housing Units becoming available for letting the Registered Social Landlord having made all reasonable efforts through the use of Home Point have found no suitable candidate under sub-paragraph 9.1 above.
9. For the purposes of sub-paragraph 9.1 of this schedule 'local connection' means having a connection to one of the parishes specified above because that person:
  - 9.1. is or in the past was normally resident there; or
  - 9.2. is employed there; or
  - 9.3. has a family association there; or
  - 9.4. a proven need to give support to or receive support from family members; or
  - 9.5. because of special circumstances;
10. In the event that Herefordshire Council does not for any reason use the sums in paragraphs 1, 2 and 4 above, for the purposes specified in the agreement within 10 years

of the date of payment, the Council shall repay to the developer the said sum or such part thereof, which has not been used by Herefordshire Council.

11. The sums referred to in paragraphs 1, 2 and 4 above shall be linked to an appropriate index or indices selected by the Council with the intention that such sums will be adjusted according to any percentage increase in prices occurring between the date of the Section 106 Agreement and the date the sums are paid to the Council.
12. If the developer wishes to negotiate staged and/or phased trigger points upon which one or more of the covenants referred to above shall be payable/delivered, then the developer shall pay a contribution towards Herefordshire Council's cost of monitoring and enforcing the Section 106 Agreement. Depending on the complexity of the deferred payment/delivery schedule the contribution will be no more than 2% of the total sum detailed in this Heads of Terms. The contribution shall be paid on or before the commencement of the development.
13. The developer shall pay to the Council on or before the completion of the Agreement, the reasonable legal costs incurred by Herefordshire Council in connection with the preparation and completion of the Agreement.

**Andrew Prior**  
**Principal Planning Officer**

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